

**OFFENDING WOMEN:
GENDER AND SENTENCING**

***AN ANALYSIS OF THE CRIMINAL JUSTICE PROCESSING OF
BLUE- AND WHITE-COLLAR THEFT AND FRAUD OFFENDERS***

BY

COLLEEN ANNE DELL

**A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfilment of the Requirements
for the Degree of**

MASTER OF ARTS

**Department of Sociology
University of Manitoba
Winnipeg, Manitoba**

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AN ANALYSIS OF THE CRIMINAL JUSTICE PROCESSING
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**BY
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**A Thesis/Practicum submitted to the Faculty of Graduate Studies of the University of Manitoba in partial
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VISION

To laugh often and much; to win the respect
of intelligent people and the affection of children;
to earn the appreciation of honest critics
and endure the betrayal of false friends;
to appreciate the beauty, to find the best in others;
to leave the world a bit better, whether by a healthy child,
a garden patch or a redeemed social condition;
to know even one life has breathed easier
because you have lived.
That is to have succeeded.

- Ralph Waldo Emerson

If you heed this observation,
You'll agree it's well worth knowing;
A person doesn't just grow old...
She becomes old by not growing.

- Author Unknown

If you have built castles in the air,
your work need not be lost;
that is where they should be.
Now put the foundations under them.

- Thoreau

The desperate, seemingly endless legal jousting went on for a full six weeks before a jury was finally seated in Judge Patricia Lyko's packed Houston courtroom. For six days of shocking testimony that jury reached the conclusion that the angel-faced, heart-stoppingly pretty twenty-four-year-old defendant was a monster behind a girl-next-door's sweet mask, a sex- and drug-crazed Jezebel guilty beyond a heartbeat of doubt of the unbelievably cruel, violent, and senseless murders with which she was charged (Kuncl, 1994:216).

The message of this quotation, taken from an American pocketbook, is similar to how Canadian society views female offenders: as abberations to the *"true female form"*.

The vision for this research is rooted in my academic, employment and volunteer education. It is within each of these realms that I began to question the treatment of female offenders. The vision was mobilized in conversation with Dr. C. Goff, who assisted in bridging the gap between the worlds of academia and society. Dr. K.W. Taylor assisted with his methodological expertise in transforming the vision into a research question and analysis. And W. Whitecloud consummated the vision with her legal proficiency and community involvement with issues eminent to the research. Each individual, as well as the Royal Canadian Mounted Police, "D" Division, specifically Sergeant Gary Guest and officers of the Commercial Crime Unit, and the Winnipeg Police Service, specifically Sergeant John Ormondroyd, Norma Danylyshen, Lawrence Mazur and Brenda Sewell-Spencer, assisted in placing the *foundation under my vision*.

ABSTRACT

This inquiry examines the influence of gender and whether the offence is white- or blue-collar on the sentencing of criminal offenders within the framework of socialist feminist theory. A sample of 83 individuals who committed white-collar offenses selected from the Royal Canadian Mounted Police between January 1988 and September 1994 and 211 individuals who committed blue-collar offenses selected from the Winnipeg Police Service within the months of March, June, September and December 1993 are examined. The Statistical Analysis System (SAS) program is used to analyze the blue-collar completed case files that focus on Winnipeg theft and fraud offenses under \$1000 and the white-collar completed case files that focus on Manitoba theft and fraud offenses over \$1000.

This research indicates both gender and whether the offense is white- or blue-collar are influential factors in determining sentence severity. Findings are reviewed in the conclusion and policy recommendations outlined. Two are: (1) the establishment of sentencing guidelines for judges that negate sex-role expectations, and (2) cultural awareness and social class sensitivity training for personnel involved in the legal processing of offenders.

ACKNOWLEDGEMENTS

*Life truly is a journey.
We learn from our experiences
only when we are able to
share our learning with
others.
Only then have we grown.
And only then do we continue
on our journey.*

- Colleen Anne Dell

This thesis is dedicated to all the people
(and animals) who have travelled on my journey.

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I. INTRODUCTION:

STATEMENT OF PROBLEM TO BE INVESTIGATED

This inquiry addresses an area of Canadian research that requires attention. Existing research on crime and sentencing disparity is inconclusive and the explanatory relevance of gender and whether the offense is white- or blue-collar is ignored. This research provides a Canadian understanding of the influential role of gender and whether the offense is white- or blue-collar in the sentencing of individuals who commit theft and fraud offenses. This chapter introduces the theoretical framework, review of the literature, research hypothesis, methodology, data analysis and policy recommendations addressed in this inquiry.

The chivalry hypothesis dominated explanations of gender and sentencing disparity into the early 1970's. The question of leniency has guided the research since, with some writers suggesting paternalism explains the apparent leniency women experience (Daly, 1989a; Kruttschnitt, 1984; Zingraff and Thomson, 1984) and others focussing on the differential treatment of women (Curran, 1983; Mohr, 1990). This research examines variables of both perspectives. Comparisons of the sentencing treatment of individuals who commit white- and blue-collar offenses has also received limited research attention in Canada and is a prime focus of this inquiry.

Feminist¹ criminology, which argues feminist thought can introduce a non-exclusionary option to the white, middle class, male perspective that dominates mainstream criminology, is adhered to (Daly and Chesney-Lind, 1988) and the socialist feminist theoretical perspective guides the analysis. An understanding of the influence of gender and whether the offence is white- or blue-collar in the sentencing of criminal offenders is necessary to initiate reform and improve the treatment of women in the criminal justice system. A study conducted by Newman and Griset (1983) points out the potential impact for research in developing sentencing guidelines (Canadian Criminal Justice:597).

The current Canadian view of sentencing disparity fails to recognize the inter-relation between the social structure, individual circumstances and the sentencing process. Instead, two exclusive views are supported. The first view, evidenced in Marxist theory, acknowledges the impact of the social structure upon individual circumstances. The second view, evidenced in Symbolic Interaction theory, concedes to the micro-level relation between individual circumstances and the sentencing process.

An inclusive view of the criminal justice process accounts for the role of the social structure and individual

¹ [A] feminist holds that women suffer discrimination because of their sex, they have needs which are negated and unsatisfied, and that the satisfaction of these needs requires radical change (Daly and Chesney-Lind, 1988:106).

circumstances in the sentencing process. The socialist feminist perspective uses a dual systems method to explain the structure of society. It focusses on "the interconnection between capitalism (class) and patriarchy (gender) and the manner in which class and gender relations are manifested in the productive and reproductive spheres" (Comack, 1992:156). In reference to Smart (1984), a socialist feminist writer, Gelsthorpe and Morris (1988:101) state:

..she points to the interactions between social institutions and everyday life experiences which deepen our understanding of the pressures to conform or deviate...Exploration of social control issues is essential for an increased understanding of how knowledge is sustained and mediated and how structural constraints affect our everyday lives.

This research uses the socialist feminist theory framework to examine disparity based upon gender and whether the offense is white- or blue-collar within the sentencing process. The necessity of adopting the socialist feminist view and placing our understanding of the sentencing treatment of women within a social context is evident in the fact that Canadian women in conflict with the law are generally poor, single mothers, undereducated, and have little or no work experience or vocational training. Large numbers have been victims of physical, sexual and/or emotional abuse, many are emotionally or financially dependent on abusive partners, many are addicted to alcohol, drugs or both, and a disproportionate number are Native (Elizabeth Fry Society of Manitoba, 1996; Johnson, 1987:26).

The sentencing process consists of four consecutive stages: police investigation, legal representation, prosecution and judicial decision making. The police investigation and judicial decision making stages are the focus of this research.

The Canadian Association of Elizabeth Fry Societies (CAEFS)² supports the impact of the social structure upon individual circumstances and the sentencing process. Research conducted by CAEFS (1988) reveals the limited perception people involved in the court process have of the position of women offenders in society. CAEFS's (1988) research suggests it is impossible for judges and others involved in the criminal justice process to make fair and informed decisions without accounting for women's experiences within their social contexts and the impact of the social structure upon them. Educating all people involved in the legal processing of offenders is necessary to ensure fair and adequate treatment of all offenders involved in the criminal justice process. This view is neither practiced in the Canadian criminal justice system nor questioned in Canadian research. The work of Danielle Laberge, which focuses upon gender in criminology, suggests "the neglect of women's criminality has been to the detriment of [all] criminological inquiry" (1991:37). This research is necessary, therefore, to contribute a Canadian

² The mandate of the Canadian Association of Elizabeth Fry Societies is to work for the advancement of justice by ensuring the fair and adequate treatment of women in conflict with the law.

understanding of the sentencing treatment of women and men in conflict with the law.

Chapter II commences with outlining the theoretical framework of this research. Transcendence from the confines of traditional criminology is achieved through adherence to a feminist criminological perspective and with socialist feminist theory guiding the inquiry.

Chapter III reviews the existing literature, commencing with the role of women in traditional criminology. An exploration of traditional theories of women's criminal conduct and their legacy follows. Prominent hypotheses of women and sentencing are examined as well as the issue of gender and sentencing disparity. Last, gender and white-collar crime within the criminal justice process is reviewed. It is vital to consider the prevailing literature so that existing information can be used and to insure the proposed area of study will contribute to criminal justice research.

Chapter IV concentrates upon defining the research hypothesis.

Chapter V focuses upon the research methodology. Two areas are addressed, sampling and measurement, with the latter focussed upon definitions of the dependent and independent variables.

Chapter VI provides the data frequency, analysis and findings.

And, chapter VII explores the research conclusions and

outlines policy recommendations and suggested areas of future research.

This chapter has provided an introduction to the aim of this inquiry. The second chapter will focus on the theoretical framework that guides the research.

II. THEORETICAL FRAMEWORK

This inquiry is guided by feminist criminology and the socialist feminist perspective. Both frameworks are reviewed in this chapter and why they are used to explain the treatment of women in the criminal justice process explored.

A. TRANSCENDING MALESTREAM CRIMINOLOGY: FEMINIST CRIMINOLOGY

"Criminology, like feminism³, encompasses disparate and sometimes conflicting perspectives....There is no one specific feminism just as there is no one specific criminology" (Gelsthorpe and Morris, 1990:12). Likewise, there is no one specific feminist criminology (Daly and Chesney-Lind, 1988; Gelsthorpe and Morris, 1990). What does exist are various feminist criminologies, or feminist perspectives in criminology. To enact reform in the criminal justice system, it is necessary to establish objective theories of women in conflict with the law. This is the premise of feminist criminology. Feminist criminology is defined as:

a diverse body of work united by the critical view that the understanding of the criminality of women, and the role of gender in theories of deviance in general, have

³ Feminism is the political theory and practice that struggles to free all women: women of colour, working class women, poor women, disabled women, lesbians, old women - as well as white economically privileged heterosexual women. Anything less than this vision of total freedom is not feminism, but merely female self aggrandizement (Smith, 1982:49).

been ill served both by traditional and new criminologies (Downes and Rock, 1990:273).

Feminist criminology is identifiable by core elements.

In essence, it is:

...anti-positivist and critical of stereotypical images of women, and the question of women is central....[It] share[s] also an interest in using methodologies which are sympathetic to these concerns (Gelsthorpe and Morris, 1988:87).

The aim of feminist criminology is to address social issues from a feminist, rather than a male-centred, perspective. Feminist thought introduces a non-exclusionary option to the white, middle-class, male perspective that dominates mainstream criminology (Daly and Chesney-Lind, 1988). Feminist criminologist, Cain, believes transcendence, or breaking out of the constraints of traditional criminology founded on male norms, is key for direction toward a feminist criminology (1990:6). Similarly, Hatch and Faith (1989) state:

[feminist] [r]esearch over the past two decades has refuted the...simplistic and dismissive impressions of the female offender, and has called attention to the gender-distinctive cultural, socialization, and economic factors which affect criminal behaviour and patterns (Hatch and Faith, 1989:455).

In reference to the emergence of feminist criminology, Comack (1992), a feminist criminologist, states:

...what began as a critique soon moved toward the task of constructing explicitly feminist theories and frameworks to better understand and explain women's crime. In general terms, this work has been characterized by...an effort to locate women's crime in its broader structural context (Comack, 1992:154).

It is imperative to consider the structure of society and

women's treatment within it when examining women's crime. Traditional criminology does not place its understanding of women's crime within a micro and macro social context. The necessity of doing so, once again, is evident in the composition of the population of Canadian women in conflict with the law⁴. The socialist feminist perspective accounts for both the macro social structure and the micro social processes.

B. SOCIALIST FEMINIST PERSPECTIVE

The dominant characteristic of the socialist feminist perspective is its emphasis on the social structure as a controlling force in the lives of women. Socialist feminist writers, Gelsthorpe and Morris (1988:100), support the view that women's offenses need to be contextualized on the macro level. Accounting for the structure of the patriarchal society and the operation of its capitalist institutions enables questioning of areas that a traditional male-centred focus neglects.

The socialist feminist perspective uses a dual systems method in explaining the structure of society. It focusses on "the interconnection between capitalism (class) and patriarchy (gender) and the manner in which class and gender relations are manifested in the productive and reproductive spheres"

⁴ Refer to page 3 for a description of the population.

(Comack, 1992:156). Similarly, Messerschmidt (1986:31), a socialist feminist writer, states:

[s]ince the system of production in contemporary...society is capitalist and the system of reproduction is patriarchy, we must look at each more closely to uncover their basic elements, to observe how they interconnect and how understanding this interconnection helps us to comprehend crime.

The socialist feminist perspective unites radical and Marxian feminist thought. It links historical materialism, based in the Marxian tradition, with a focus upon domination. From the radical tradition, socialist feminism incorporates an examination of "structural conditions and the psychological orientations they produce" (Messerschmidt, 1986:26). With the unconventional use of historical materialism and incorporation of radical feminist thought, socialist feminism is able to go beyond the traditional Marxian school of thought in three ways: (1) concentration upon domination, (2) redefinition of material conditions, and (3) re-evaluation of the significance of ideology (Ritzer, 1988:428).

First, class inequality is not the prime focus of socialist feminism, as it is for Marxism. Instead, a broader range of social inequalities are examined. The variant of socialist feminism to guide this research is that which sets out to

describe and explain all forms of social oppression, using knowledge of class...hierarchies as a base from which to explore systems of oppression centring not only on class, but also on [gender], race, ethnicity, age, sexual preference, and location within the global hierarchy of nations (Ritzer, 1988:426-427).

Within the socialist feminist perspective, the domination of women serves as the vantage point to address other forms of oppression.

Second, the Marxian economic perspective of the definition of material conditions of life is broadened. Socialist feminism addresses the "conditions that create and sustain human life: [such as] the human body, its sexuality and involvement in procreation and child rearing; home maintenance with its unpaid, invisible round of domestic tasks; [and] emotional sustenance" (Ritzer, 1988:428). This redefinition of material conditions views human beings as creators and sustainors of other human beings, in comparison to the traditional Marxian view of human beings as producers of goods. "The focus thus shifts from the value of goods to the constitution of human personality" (Ritzer, 1988:428).

The third focus of socialist feminism, which Marxism basically dismisses, is ideational phenomena. This is

consciousness, motivation, ideas, social definitions of the situation, knowledge, ideology, the will to act in one's interests or acquiesce to the interests of others. To socialist feminists all these factors deeply affect human personality, human action, and the structures of domination that are realized through that action. Moreover, these aspects of human subjectivity are produced by social structures as elaborate and powerful as those that produce economic goods (Ritzer, 1988:428).

Messerschmidt (1986:331) terms this a character, or personality, structure. It is an internalized pattern of behaviour, experienced in terms of identity, reflecting the domination and subordination relations found in the productive

and reproductive spheres (Messerschmidt, 1986:331). And although human beings may have the capacity to create themselves, they can not do so unless it is a highly conscious choice. Messerschmidt (1986:331) claims "individuals are restrained by the character structures they have previously developed by interacting in the institutional structures of production and reproduction".

Socialist feminism thus develops a portrait of social organization in which the macro-social structures of economy, polity, and ideology interact with the intimate, private, micro-social processes of human reproduction, domesticity, sexuality, and subjectivity to sustain a multi-faceted system of domination, the workings of which are discernable both as massive social patterns and in the subtleties and details of interpersonal relationships. To analyze this system, socialist feminists shuffle between a mapping of large-scale systems of domination and a situationally specific, detailed exploration of the mundane daily experiences of oppressed people (Ritzer, 1988:429).

A socialist feminist understanding of crime is based on two premises. First, there are two classes within Canadian society: the powerful and the powerless. A comprehension of the patriarchy and capitalism dichotomy and its effect on human behaviour is necessary for understanding the social control of criminality. The interaction of the two spheres results in specific patterns of social involvement. Messerschmidt (1986:30) suggests that

[b]y employing human powers to satisfy needs, relations of production and reproduction develop into linked institutions and significantly affect how members of society think and act and what each is capable of doing. Analyzing both production and reproduction gives us a more thorough understanding of how and why people in different class and gender locations act as they do in particular societies.

Second, power, in terms of gender and class, is central to understanding serious forms of criminality. Messerschmidt (1986:42) states:

[j]ust as the powerful have more legitimate opportunities, so they have more illegitimate opportunities. The capitalist class and men in general have a greater opportunity to obtain high quality education, lucrative jobs, and overall social status. Yet they also have a greater opportunity than the powerless to engage in criminality not only more often, but also in a way that is more harmful to society. We can say, then, that criminality is strongly related to the distribution of power within the division of labour in both the market and home. Types of criminality are only possible when particular resources are available.

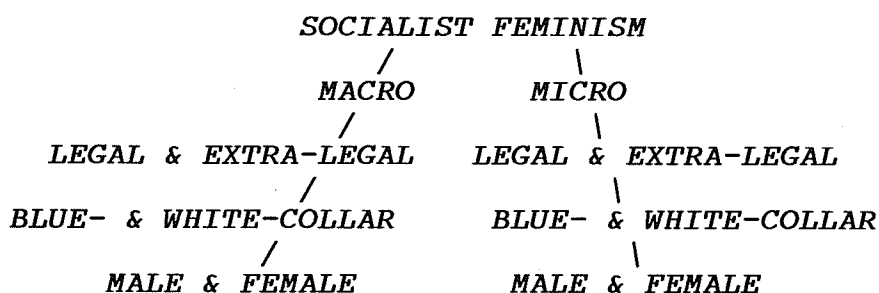
This view is supported in reflection of the opportunity structures available to white- and blue-collar male and female offenders within Canadian society. Women overwhelmingly participate in crimes of accommodation and men overwhelmingly participate in crimes of power.

C. RELATIONSHIP OF RESEARCH VARIABLES TO SOCIALIST FEMINIST THEORY

"What we can say with confidence is that simple allegations of 'chivalry' or 'sexism' obscure our understanding of the complex nature of sentencing both male and female defendants" (Morris, 1988:171). To understanding this, differential treatment hypothesis variables, in conjunction with core variables, paternalistic hypothesis variables, variables gained from white-collar research and

variables defined in the grounded theory⁵ approach to the data collection, are examined within the framework of socialist feminist theory and the sentencing process.

The identified variables are of both a legal and extra-legal nature and concentrate upon the macro and micro levels of analysis, within the male and female white- and blue-collar domains. The following diagram illustrates this:



Comparisons will be made between white- and blue-collar offense categories, focussing specifically upon gender.

The aim of this research is to use socialist feminist theory to frame the context of the inquiry. As stated, the chosen variables have been identified from both relevant literature and a grounded theory approach. This research is not intended to either prove or disprove socialist feminist theory, but rather, to use the socialist feminist framework to guide the analysis.

The next chapter focuses upon the neglect of

⁵ The grounded theory approach "is based on the systematic generating of theory from data, that itself is systematically obtained from social research" (Glaser, 1978:2).

criminological research to account for gender from both a historical and contemporary perspective. The inadequacy of traditional criminology, theories of women's criminal conduct, sentencing disparity and white-collar crime research is reviewed and their adherence to sexist and incomplete assumptions about women explored.

III. REVIEW OF THE LITERATURE

It is necessary to provide a comprehensive review of the literature to bring to light the history of neglect of criminology to focus upon gender. This chapter reviews the neglect to focus upon gender in traditional criminology, theories of women's criminal conduct, and sentencing disparity and white-collar crime research. This review will expose the primitive stage we are at in Canada in understanding gender and sentencing.

A. OFFENDING WOMEN IN TRADITIONAL⁶ CRIMINOLOGY

"Until very recently, it was possible to condemn criminologists both for their near silence on women and criminal law, and for their sexism when they did speak" (Gavigan, 1987:47). Assumptions about women within traditional criminology have contributed to the distortion of criminal justice research. It is necessary, therefore, to identify the main areas of criticism prior to reviewing research on gender and sentencing. Three areas are: (1) neglect to acknowledge women, (2) treatment of women as "other", and (3) adherence to sexist stereotypes of women.

⁶ Traditional criminology is defined as historical and contemporary mainstream criminological theories and literature which do not embody feminist concerns.

1. Neglect to Acknowledge Women

If you visit the criminology section of any academic library, you will rapidly discover that the vast majority of traditional literature is concerned with male criminality. Numerous empirical studies provide a rich source of data on the variety of offenses that men commit....Alongside these volumes, you will find an extensive body of theoretical material which seeks to explain these empirical findings. None of the authors seem to notice that half the population has been totally ignored by this enterprise (Gregory, 1986:321).

For criminological textbooks to contain nothing at all on women, not even critical reviews, is common (Morris, 1988:1). This is true for historical (see Ferri, 1917) and contemporary (see Hagan, 1984) criminology. Until recently, women were rarely mentioned in mainstream criminology. A common rationale for researchers to neglect women was that there was so few involved in criminal conduct.

2. Treatment of Women as 'Other'

When women are noted in traditional criminology, they are consistently relegated the position of 'other'. According to Simon de Beauvoir, "'She (woman) is defined and differentiated with reference to man, not he with reference to her...He is the subject, He is the absolute...She is the other'" (Scraton, 1990:12). Daly and Chesney-Lind (1988:118) refer to this as the generalizability problem: that is, theories of men's crime are applied to women. The research of Leonard (1982) supports this claim. She concludes:

[t]heories of criminality have been developed from male subjects and validated on male subjects. Thus they are 'man made'. There is nothing wrong with this per se. But the theories have tended to be generalized to all

criminals, defendants and prisoners. It is assumed that the theories will apply to women; many do not (Morris, 1988:2).

Some theoretical concepts may be applicable to men's and women's experiences, but women's criminality cannot be explained solely through the eyes, comments and reflections of male subjects and theorists. Circumstances and reasons for committing criminal acts vary for men and women. The androcentric canon of mainstream criminology is perpetuated when this is not recognized.

3. Adherence to Sexist Stereotypes of Women

"'Being a woman' is not a single conceptual category: experiences differ" (Morris, 1988:167). Traditional criminology does not acknowledge this: it adheres to sexist stereotypes of women (Klein, 1973; Scraton, 1990; Smart, 1976). Classical theories addressing female offenders (Lombroso and Ferrero, 1895; Thomas, 1923; Pollak, 1950) presume females are inferior to males. For example, "Lombroso and Ferrero argued that women offenders reveal fewer signs of degeneration simply because they have evolved less than men" (Smart, 1976:32). These androcentric portrayals of women have had a dramatic impact in shaping contemporary perceptions of women offenders. For example, Cowie et al. "assume an historical sexist view of women, stressing the universality of femininity in the Freudian tradition, and of women's inferior role in the nuclear family" (Klein, 1973:78). Feminists (Klein, 1973; Smart, 1976) criticize these presuppositions,

based on their patriarchal definitions of the female criminal.

The evolution of the criminal justice system is based extensively on the effort of and in the interest of the male segment of the population. The result is inadequate, sexist and stereotyped treatment of women criminal offenders, and is further illustrated in traditional theories of women's criminal conduct.

**B. TRADITIONAL THEORIES OF WOMEN'S CRIMINAL CONDUCT
AND THEIR LEGACY**

Criticisms of traditional criminology are also applicable to classical and contemporary mainstream theories of female criminal conduct. In Canada, the primary feminist concern is with sexist stereotypes of women offenders.

Feminist perspectives on crime and deviance begin with a critical view of the sexist assumptions of criminological research. These assumptions include the fact that women's deviance is usually seen as sexual deviance and that women's crime is caused by physiological differences or internal motivations (Anderson, 1983:181).

Gender assumptions are the nucleus of explanations of female criminality. In the view of crime and deviance theorists, the violation of criminal statutes are secondary to women's violations of their gender role (Rafter and Stanko, 1982:10).

It is necessary, therefore, "to consider what image of women is informed by various theoretical perspectives. In other words, does criminological literature reproduce conventional wisdom about the inherent nature of women and

their proper sphere?" (Gavigan, 1987:48). Indeed it does, and two areas of theoretical prominence display this:

1. Biological, Psychological and Physiological Theories

(i) Stereotyping the Inherent Nature of Women, and

(ii) Stereotyping Women's Sexuality and;

2. Women's Liberation Thesis

(i) Emancipation/Masculinity Thesis, and

(ii) Occupational/Opportunity Thesis.

1. Biological, Psychological and Physiological Theories

A stance that unites biological, psychological and physiological theories, even though their accounts of female criminality vary widely, is "a popular (mis)conception of the innate character and nature of women" (Smart, 1976:27). These theories adhere to and perpetuate sexist stereotypes of female criminal offenders, which overwhelmingly focus upon their sexual nature.

(i) Stereotyping the Inherent Nature of Women

Historically, criminological theories devised by men such as Lombroso and Ferrero, Thomas, and Pollak regarded women's criminal conduct as biologically, physiologically, and/or psychologically founded (Smart, 1976:28-30). These theories adhere to detrimental stereotypes of the female offender. Lombroso and Ferrero viewed female criminals as weak willed, Thomas perceived them as individually socially sick, and Pollak assumed all women were inherently evil (Smart, 1976:27-

31). For example, implicit in Pollak's method is "an attempt to show that there is some biological, psychic or social imbalance present in women who commit criminal offenses" (Smart, 1976:51).

The legacies of these historical theories are evident in contemporary malestream explanations of women's criminal conduct. For example, Cowie et al. adopted Lombroso and Ferrero's biological deterministic argument (Smart, 1976:54-55). "[T]hey look for signs of 'defective' intelligence, abnormal central nervous function and impaired physical health [in female offenders]" (Smart, 1976:55). A further example is the work of Grove (1985), who cites stable crime rates between gender as evidence of biological differences (Morris, 1988:43). Feminists like Klein (1973) and Smart (1976) believe biological, physiological, and/or psychological theories are injurious to women because they perpetuate their subordination and do not address the root cause(s) of women's criminal conduct.

(ii) Stereotyping Women's Sexuality

To a large extent, the study of female deviance has been ignored, making it easier for sexist interpretations to persist. However, when female deviance is studied, it is often relegated to a few categories of deviant behaviour that evoke sexist stereotypes. Studies of female deviance have typically been limited to behaviours that are linked with female sexuality (Anderson, 1983:187).

The stereotyping of women's sexuality is evident in the classical theories of Lombroso and Ferrero, Thomas, Pollak and Freud (Klein, 1973:58-61). In these theories, women's "[s]exuality is seen as the root of female behaviour and the problem of crime" (Klein, 1973:60). For example, Pollak claims the physiological makeup of women, which relegates them a passive role during sexual intercourse, is the origin of their deceitful nature because men cannot hide failure in performance of the sexual act whereas women can (Smart, 1976:47).

Sexist portrayals of women's criminal conduct also exist in contemporary theories (Konopka, 1966; Cowie et al, 1968). Schur (1983) states that in contemporary explanations "[w]omen's relation to crime-defining and crime-processing is most dramatically affected by our culture's heavy preoccupation with female sexuality" (220). The contemporary work of Konopka, for example, adheres to a Freudian perspective, which sustains assumptions of the physiological and psychological nature of women. Konopka states that "[w]hatever [the woman's] offense...it is usually accompanied by some disturbance or unfavourable behaviour in the sexual area" (Klein, 1973:76). Downes and Rock (1990) state: "[t]o paraphrase Gouldner, patriarchally inclined criminologists have portrayed the female deviant as 'woman fighting on her back, rather than women fighting back'" (275). The second theoretical perspective to display sexist assumptions of the

female offender is the women's liberation thesis.

2. Women's Liberation Thesis

The 1970's witnessed the emergence of the women's liberation thesis. As reflected in the work of Rita Simon (1975) and specifically Freda Adler (1975), the basic idea was that changes in women's gender roles are reflected in their rate of criminal involvement (Comack 1992:154). The women's liberation thesis asserts the women's liberation movement has precipitated criminal conduct in women. That is, as women's roles become less structured, they have more opportunity to deviate from their traditional roles and commit criminal acts traditionally committed by men (Smart, 1976:70-76).

In opposition to the women's liberation thesis, Chesney-Lind (1980:29), a feminist criminologist, states:

[i]t is time to recognize clearly the notion of the liberated female crook as nothing more than another in a century-long series of symbolic attempts to keep women subordinate to men by threatening those who aspire for equality with the images of the witch, the bitch and the whore. Male dominance and other forms of social inequality produce female crime, and it is social and economic justice that will reduce its incidence.

(i) Emancipation/Masculinity Thesis

One form of the women's liberation thesis is the emancipation, or masculinity thesis, found in the work of Freda Adler (1975). In her view, an increase in women's crime, especially violent crime, is a direct result of the women's liberation movement. Adler (1975:30) states:

...what we have described is a gradual but accelerating

social revolution in which women are closing many gaps, social and criminal, that have separated them from men. The closer they get, the more alike they look and act....The simplest and most accurate way to grasp the essence of women's changing patterns is to discard dated notions of femininity. That is a role that fewer women are willing to play (Schur, 1983:214).

Adler "cautions against the achievement of equality because it will lead to more women criminals....In her view, '[w]omen have lost more than their chains, they have lost many of the restraints which kept them within the law'" (Gavigan, 1987:53). Simon and Landis (1991:1) explain:

[t]his perspective predicts a causal nexus between the women's movement, changing social roles of women, the masculinization of female behaviour (particularly a...change from passivity to aggressiveness as women assume male social roles), and changes in patterns of female offending (Simon and Landis, 1991:1).

It is important to realize, as expressed by Rafter and Stanko (1982), that Adler's work does not contribute to our understanding of the criminal behaviour of men and women; it is based on the assumption that crime is a male phenomenon and therefore any woman who commits a crime is masculine. This viewpoint is as sexist as the classical biological perspective of Lombroso and Ferrero, who state: "if a woman is a true criminal type she is not only an abnormal women, she is biologically like a man" (Smart, 1976:33).

(ii) Occupational/Opportunity Thesis

Similar to the emancipation thesis, the occupational, or opportunity thesis, concedes to the women's liberation thesis. It suggests that as women deviate from their traditional,

patriarchally defined gender roles, they are provided with an increased opportunity to partake in crimes traditionally committed by men. The research of Simon (1975) supports this claim.

She [Simon] maintains that as women move into white-collar banking positions, there is a corresponding increase in embezzlement committed by women. Simon's data indicate the effects of gender stratification on women's lives: as women's economic roles begin to change, she states, opportunities for females to commit work-related crime also changes (Rafter and Stanko, 1982:10).

Simon and Landis (1991) further support the occupational thesis, claiming women's increased participation in property crimes is due to their expanded occupational opportunities (Rafter and Stanko, 1982:10). Simon and Landis (1991:3) state:

...opportunities, skills, and social networks historically have contributed to men's propensity to commit crimes, while these same factors have limited women's opportunities. It is women's objective location within the social structure and particularly within the occupational sphere, as well as in the private, family sphere, that influence the nature of their criminality.

Essentially, according to the emancipation and occupational theses, if women did not deviate from their patriarchal gender roles, their correlated propensity for criminal involvement would not increase. Comack (1992) states: "...in drawing connections between the women's movement and crime, it equates 'being liberated' with 'freedom to be male', as opposed to a resistance to and rejection of traditional gender stereotypes" (Comack, 1992:154). Describing the essence of the women's liberation thesis

displays how stereotypical images of women continue to influence theories concerning female offenders. Furthermore, it substantiates that sustaining stereotypes of women's gender roles in society validates the arguments of malestream criminology and its degregation of women's social status. A study by Steffensmeier assessed the impact of the women's movement on pre-1970 and post-1970 arrest rates and "concluded that 'the movement appears to have had a greater impact on changing the image of the female offender than the level or types of criminal activities that she is likely to commit'" (Parisi, 1983:123).

C. **WOMEN, SENTENCING AND DISPARITY**

To understand the sentencing of women within the criminal justice process, it is imperative to understand the treatment of women in conventional criminology. Carrigan (1991:11) states:

[a]s with most social phenomena, a better understanding of the past can be a substantial aid in dealing with problems of the present. James Inciardi and his collaborators, in Historical Approaches to Crime, explained the value of the historical perspective: "The longitudinal view offered by the observation and documentation of phenomena through time can provide for a more complete analysis and understanding of the emergence, scope, and persistence or change of a given social organization and behaviour, and as such, history becomes the very framework of detached inquiry.

To this point, the literature review shows that studies of women and crime and theories of women's criminal conduct are sexist and incomplete. This perception is perpetuated

within the specific realm of women and sentencing. A general conclusion on the sentencing of women offenders is that "[m]ost observers feel that women receive preferential treatment [in the court system], which in operational terms means that they are less likely to be...sentenced, and if they are sentenced, they are likely to receive milder sentences" (Simon and Landis, 1991:57). There is not enough empirical Canadian research to support or refute the validity of this claim (Hatch and Faith, 1989:434). There has been a neglect to operationalize and problematize gender, and numerous other relevant factors, as research variables. This is evident when considering conventional hypotheses of women and sentencing, sentencing disparity research, and the methodological confines of research on women, sentencing and disparity.

1. Prominent Hypotheses of Women and Sentencing

The general focus of research in the area of sentencing and disparity is specific to time periods. This is similar in the study of women and sentencing disparity as the two areas have evolved concurrently. Three prominent explanations have dominated the research on the significance of gender in sentencing disparity. They are: (i) chivalry hypothesis, (ii) paternalistic hypothesis, and (iii) differential treatment hypothesis. Each will be reviewed.

(i) Chivalry Hypothesis: Pre-1970 Research

At the beginning of the century, a direct relation

between gender and court dispositions was assumed (Odubekun, 1992:345). This correlation was based on the simplistic comparison of the number of male and female offenders. Two explanations for women having a lower representation dominated arguments: (1) women were inherently less inclined to commit criminal acts and (2) women were selectively processed by police and judges (Odubekun, 1992:345). The first explanation, as previously discussed, is exemplified in the work of Lombroso, Ferrero, Thomas and Pollak. The second argument is based within the chivalry hypothesis.

Theories of women and sentencing have historically been guided by the question of chivalry. The chivalry hypothesis, like traditional explanations of women's criminal conduct, is based upon presuppositions about the inherent nature of women and their need for protection. Parisi (1983) and Morris (1988) describe chivalry as the lenient treatment of female offenders because society has taught its members to approach females in a protective manner. And since decision makers in the criminal justice system are predominately male, female offenders are treated not as offenders, but as wives, daughters and mothers. The result is that "women have been said to profit from their 'femaleness' by way of the 'chivalry factor', operating to render authorities reluctant to arrest, prosecute and convict women, despite their guilt" (Scutt, 1979:3).

The chivalry hypothesis is rarely accepted as valid in

current research. Scutt (1979:17) refers to the chivalry factor as an easy and deceptive explanation for disparities in male and female crime that appear in official records. Similarly, the work of Chesney-Lind states:

facile comments about women defendants benefitting from male tolerance seem at best inaccurate. What may instead be happening is judicial enforcement of sex-role expectations as well, and sometimes in place of, the law with court personnel overlooking female criminal misconduct of the woman who conforms to female sex-role expectations, but harsh response to women who deviate from sexual and behavioral components of the female sex-role (1980:27).

Chesney-Lind concludes "the prevailing attitude toward women in the criminal justice system is basically enforcement of the female sex-role expectations rather than, or in addition to, the law" (1980:28). The chivalry factor, therefore, with its inherent adherence to sexist stereotypes, is detrimental to the sentencing of women who do not commit "female" crimes.

According to Ross and Fabiano (1986), until recently there has been faith in the existence of chivalry. They state:

because of traditional social expectations about the treatment of women, it seems to have been *assumed* that, because they are women, female offenders would be treated in a benign and gentle way in the correctional setting. As a result, there has been less pressure to determine how they *actually* have been treated" (Ross and Fabiano, 1986:9).

(ii) Paternalistic Hypothesis: 1970's Research

During the 1970's the paternalistic hypothesis, with its focus on legal variables, became the prominent approach to court disposition studies (Hagan, 1974). Legal variables are

defined as those with some legal relevance to the crime, such as an offender's criminal history or seriousness of the offense (Odubekun, 1992:345). Though many categorize chivalry and paternalism as one in the same, there is a marked difference.

Referring to the work of Moulds (1988), Daly (1989a:10) states:

[chivalry] is confined to superficial deferential behaviours and social courtesies, but [paternalism]...indicates power relations, reflecting women's social and legal inferiority to men because of their punitive need to be supported, guided, and protected....Those who do not make this distinction define paternalism as chivalrous attitudes and behaviours that reflect a degree of respect toward women (Daly, 1989a:10).

Contemporary explanations of women and sentencing are partially guided by the paternalistic hypothesis.

Divergent views of the paternalistic hypothesis exist because, according to Daly (1989a), its exact definition and impact is not agreed upon among scholars. Some claim paternalism "predicts lighter sentences for women than men, particularly where it is believed that women deserve such extra care" (Zingraff and Thomson, 1984:403). Others claim paternalism has more to do with protecting children and families than with protecting women (Daly, 1989a).

The research of Daly (1989a:27) and Carlen (1990:1) supports the primacy of protecting families in sentencing decisions. Both studies reveal non-familied men and women are treated more severe in the court process than familied men and

women, with family women treated more lenient than family men. Daly's research concludes a family is often defined by whether there are dependents or not: the third view, which highlights children as the primary objects of the court's protection (Daly, 1989a:30). Daly (1989a) concludes "the psychological well-being of children was at the core of their [judges'] protectivism. Caretaking labour for children was the next in importance, followed by paid labour that provided material support for children or other family members" (28).

Daly's research suggests two rationales for differentials in judicial sentencing of females and males: the degree of responsibility the defendant has to others (higher degree of social control) and the social costs of punishment on family members, including the economic consequences of removing care givers and wage earners from families and the psychological development of children (Daly, 1989a: 20-21). Daly found that "[t]he protection of children and families, not the protection of women, characterized the type of paternalism practiced by most judges" (Daly, 1989a:27). After prior record, the most frequently cited criteria were the defendant familial status, education or employment status, and the nature of the offense charged (Daly, 1989a:16). Daly's study suggests:

statistical controls for the type and severity of crimes charged and defendant prior records are not enough to analyze gender-based sentencing disparities. Another set of variables needs to be considered - whether defendants have dependents and whether the mitigating effect of having dependents is greater for women than for men (1989a:29).

It is important to examine the presence of paternalism, incorporating its definitions, in the judicial system because "as long as paternalism exists in any form, women remain subjected to the ideology that they are less responsible than men. Their dependency upon men for protection and guidance is perpetuated" (Zingraff and Thomson, 1984:410). And this, in turn, reinforces sexist stereotypes of women.

During the late 1970's, two segments to the judicial sentencing process were identified: conviction and sentence length. Focussing upon conviction, Kruttschnitt and McCarthy (1985) conclude in their research that "sex-based sanctioning may hinge on the nature of a female offender's offense", which reveals the inherent bias of sex-role stereotyping and paternalism in the conviction decision (306). Parisi (1982), in her review of sentencing disparity research and gender, suggests that judges may not convict a female because of their paternalistic view that she is more responsive to rehabilitation (208). And in Daly's review of the literature, she states "[t]he most frequent explanation in the literature is that judges and other court officials try to protect women as the 'weaker sex,' from the stigma of a criminal record or the harshness of jail" (1987a:268) in their conviction decisions.

Zingraff and Thomas (1984) studied the last stage of the sentencing process, sentence length. They examined the sentences issued for similar misdemeanour offenses of males

and females. They hypothesized that women whose behaviour conforms to gender-role expectations are more likely to receive lenient treatment than women who do not conform to the stereotype (410). Zingraff and Thomson conclude:

[c]hild abandonment and assaults seem directly to contradict gender role expectations for females and the sentence lengths women receive for these two offenses do tend to be longer than those received by their male counterparts....Worthless cheques and concealment of merchandise, on the other hand, appear to be somewhat more consistent with the stereotype and no sentence length differential is found. Differential sentence lengths seem to be related to the fit between offender's sex and gender role characteristics of the criminal behaviour" (1984:410).

Kruttschnitt (1984) focuses her work on gender-related statuses. Based on the theories of Turk (1969) and Black (1976), Kruttschnitt states "both perspectives suggest that the question of differential treatment can not be answered effectively until we determine whether sex per se or the social status attendant to sex affect criminal court sanctions" (216). According to Kruttschnitt, gender status related variables that have been neglected are whether the offender was an accomplice or instigator, and family composition. The differential treatment hypothesis incorporates both legal and extra-legal variables.

(iii) Differential Treatment Hypothesis: Post-1980 Research

In the 1980's, empirical studies found that both "legal" variables (i.e., prior record and crime seriousness) and "extra-legal," otherwise called "social" or "non-legal" variables (i.e., age, ethnic background, income), influenced sentences (Curran, 1983) (Odubekun, 1992:346).

Of the two identified segments of the judicial sentencing process, conviction and sentence length, the conviction decision is said to be influenced more by legal variables;

extra-legal variables are said to carry more weight in determining sentence length (Curran, 1983). Furthermore, focussing upon gender, Odubekun (1992:436) claims:

differential sentencing outcomes may be explained by the heightened importance of extra-legal variables affecting female offenders at earlier stages of the criminal justice system, particularly pretrial release.

The differential treatment hypothesis is explored in the work of Nagel (1981).

She [Nagel] found that a whole range of variables which traditionally affected sentencing decisions for men - for example, the severity of the offence and the number of previous convictions - did not significantly affect the severity of sentences for women. Conversely, marital status, a variable not significant for men, had a strong affect on a woman's likelihood of being sent to prison. The type of offence was also relevant for women, but not for men. Thus, female violent offenders were punished more harshly than female property offenders. Nagel explains this as punishment for a breach of role expectations in addition to the breach of the criminal law" (Morris, 1988:88).

Similarly, Farrington and Morris' research (1983) finds women and men are not sentenced differently based on gender alone. They conclude that sentencing decisions for women and men were influenced by different factors, including marital status, family background, sexual composition of the bench and involvement of other offenders (Morris, 1988:89).

A study by Kruttschnitt (1984) finds a woman's respectability also influences judicial sentencing decisions. Referring to the work of Bertrand (1985), past experiences and behaviour such as psychiatric treatment, drug use/abuse, and employers' opinions are all measures of women's respectability. Kruttschnitt concludes, regardless of the

offense committed, the less respectability a woman has, the greater the probability that she will receive a harsh sentence. The definition of respectability, inevitably, is linked to sexist gender stereotypes.

A review of the literature by Bertrand (1985) on the effects of sexism on sentencing concludes:

....the law and the judges did not stand on the side of equality and individual rights, nor were they even neutral. By and large, they acted as barriers to, rather than a guarantee of, equality between men and women (Bertrand, 1985:142).

According to Kruttschnitt (1984), the existing research is suffering from an absence of control for gender-related statuses.

By gender-related statuses, we simply mean any aspect of social life that is particularly characteristic of one sex. There is a tremendous range of positions and roles in society that are predominantly occupied by only one sex (Kruttschnitt, 1984:214).

Although specific time periods were attached to these hypotheses, the injurious legacy of traditional hypotheses is evident today. In Crime and Punishment in Canada. A History, in a chapter focussing upon recent developments in the treatment of the female offender, author D.O. Carrigan (1991) states:

[a]nother benefit that at least some women have enjoyed is preferred treatment in deference to their sex. It is referred to as the "chivalry factor". While there is no way statistically to document the phenomenon, victim surveys and interviews with the police leave little doubt that it exists. Some people, when they discover that the perpetrator of a crime was a woman, will drop the charges. Police are sometimes reluctant to arrest a woman and will let her go with a warning rather than charge her. Judges are quicker to dismiss a case against

a woman than a man and prosecutors are more willing to settle out of court or go with a reduced charge when a woman is involved. Sentences seem to be lighter and even female recidivists get off easier (475).

This portrayal of the way female offenders are treated categorizes all female offenders as one and the same. The suggestion that some females may be sentenced harsher than others due to sex-role expectations is not even noted. Such inaccuracy is further reflected in research on sentencing disparity.

2. Sentencing Disparity

This section will first provide a definition of sentencing disparity and then a time period review.

(i) What Is Sentencing Disparity?

Inconsistency surrounds the definition and measurement of sentencing disparity. According to Goff (1993) "[t]he precise nature of sentencing disparity varies according to the individual defining the term" (243). For example, disparity has been most commonly used to describe and study trial outcomes and issued sentences when like cases are tried. Disparity has also been the focus of studies on sentencing practices and outcomes within and between jurisdictions. As well, disparity refers to social harms and sanctions; for example, whether those who produce equatable amounts of harm are treated equally when sentenced. The result is various definitions of disparity, in conjunction with numerous explanations, attempt to account for the differential

sentencing of criminal offenders. It is of no surprise, therefore, that a set of theories do not dominate. Goff (1993) points out that "...research efforts have varied in their approaches to the measurement of sentencing disparity, and [thus] produced a degree of confusion about the issue" (242).

Based on the forgoing, the inclusive definition of sentencing disparity used in this research is: *a decision made by a participant in the criminal justice process that results in unwarranted differences in treatment based upon gender and/or whether the criminal offense is white- or blue-collar.*

(ii) Time Period Review

Research on disparity and criminal offender sentencing is characterized by inconsistencies in focus, methodology, theory, definition and conclusion. However, there is consistency between the favoured research approach and time periods.

The pre-1960 research focussed upon bivariate relationships, such as type and length of sentence (Hagan and Bumiller, 1983). The 1960's introduced the individual-processual approach, which distinguished between legal and extra-legal variables, with studies being predominately 'legalistic' in nature (Hagan and Bumiller, 1983:2) (Hagan, 1974) (cited in Odubekon, 1992).

The 1970's were characterized by variations of the individual processual model of the sentencing process. By the

late 1970's, the structural-contextual approach gained recognition with sentencing being conceptualized as "the end result of a decision making process that involves offenders moving through a series of potentially important stages in a complex criminal justice system" (Hagan and Bumiller, 1983:3). Individual processing decisions were acknowledged to vary by context since individuals and the system occupy variable positions within the social structure. According to Hagan and Bumiller (1983:3):

Most significant in the development of this approach was the introduction of a number of important "case-processing variables" into these models and the application of more sophisticated multivariate techniques in the effort to test the fit of these models with actual case data (Hagan and Bumiller, 1983:3).

Log linear techniques and structural equation models were used to replicate this complicated process.

In the early 1980's, both legal and extra-legal variables were acknowledged to influence the sentencing process. Contrary to legal variables, extra-legal variables are defined as having a social relevance to crime (Curran, 1983) (cited in Odubekon, 1992). With the newfound recognition of the contribution of 'social' factors to women's criminality, the social distinction between female and male criminal conduct was finally acknowledged.

The contemporary position on sentencing disparity in Canada is reflected in the comments of the 1987 Canadian Sentencing Commission.

In the present system, where there are no formal

"standards" against which to judge a sentence, the lack of systematic sentencing information accessible to judges in their determination of sentences almost ensures that there will be unwarranted variation in sentences (Griffiths and Verdun-Jones, 1989:336).

It should be of no surprise, therefore, that sentencing disparity research and methodology are abounding with problems.

3. Problems with Sentencing Disparity Research and Methodology

Hagan and Bumiller (1983) conducted a review of sentencing research and concluded there were consistent problems with definitions and methodology. For example, Hagan and Bumiller (1983) cite:

while Eisenstein and Jacob (1977:v) conclude from a study of sentencing in Baltimore, Chicago and Detroit that "blacks are not treated worse than whites...", Lizotte (1978:577) used some of the same data from Chicago to calculate that "...the 'cost' of being a black labourer is an additional 8.06 months of prison sentence..." (1).

They further state:

[i]deally, social science research is a cumulative enterprise: Research problems are refined in their definition, increasing amounts of data are brought to bear, findings accumulate, and knowledge increases. The reality of sentencing research falls far short of this ideal (Hagan and Bumiller, 1983:10).

This section presents three areas of concern with sentencing disparity research and methodology: (i) the inability to make cumulative conclusions, (ii) the effect of individual judge's characteristics on sentencing outcomes, and (iii) the non-consideration of the relation between white-collar crime and social status.

(i) Inability to Make Cumulative Conclusions

Hagan and Bumiller (1983) cite five methodological problems with individual studies establishing cumulative conclusions based upon sentencing research. First, Hagan and Bumiller claim the dependent variable, sentencing, is diversely operationalized which makes comparisons between studies impossible. Second, sampling problems based on inconsistency occur because research on sentencing is carried out in a variety of court settings and stages in the criminal justice process. Third, measurement of legitimized influences are often ambiguous. For example, prior record has been measured by an assortment of variables such as prior number of arrests or most serious offense. In addition, legitimate influences, such as criminal intent and quality of evidence, have been neglected as research variables. Fourth, definitions of non-legitimized influences on sentencing are ambiguous. For example, social class has been measured by annual income or occupational status. And fifth, measurement of contextual effects (i.e., the setting/social context of the period in time) have been omitted.

Hagan and Bumiller (1983) support the amalgamation of the structural contextual and individual processual approaches for studying sentencing practices. They recognize the importance of locating individual cases and the courts in which they were processed in the larger social world. They emphasize the need to account for "individuals across stages and settings" (Hagan

and Bumiller, 1983:35). Hagan and Bumiller (1983) claim:

there are two incipient theoretical orientations implicit in the assumptions that sociological researchers bring to this area of work. We believe that an awareness of these two orientations--the individual-processual approach and the structural-contextual approach--is helpful to understanding developments in this research literature (2).

Similarly, Wheeler, Weisburd and Bode (1982) state:

If the question is simply: Is there disparity in sentencing? Then the answer must surely be yes. It is possible to go into any jurisdiction and find extreme instances of similarity situated persons who have been given very different sanctions. But if such cases are the rule, there should be little pattern or consistency in the way in which sanctions are meted out. If there is such a pattern and regularity, we should observe substantial relationships between an offender's background and conduct on the one hand and the sanction meted out on the other (656).

(ii) The Effect of Individual Judge's Characteristics on Sentencing Outcomes

A second concern with sentencing disparity research is the effect of individual characteristics of judges on issued sentences. In the interest of law reform, the Canadian Sentencing Commission was created in 1984. Its mandate required it to address the "issue of unwarranted disparity which was, according to the terms of reference, 'inconsistent with the principle of equality before the law'" (Mohr, 1990:480). The main recommendation made by the Commission was:

...the paramount principle governing the determination of a sentence should be that the sentence be proportionate to the gravity of the offense and degree of responsibility of the offender. The just desserts solution proposed by the Commission was the first serious attempt to ensure that individual judges sitting in

courts of different levels across the country would no longer sentence according to their personal rationales but would share a uniform approach (Mohr, 1990:480-481).

The concern, however, is that the recommendations remain gender, as well as race and class, blind. As Mohr (1990:481) comments: "treating un-equals equally will not result in equality" (Mohr, 1990:481).

In 1988, the Department of Justice funded the Canadian Association of Elizabeth Fry Societies (CAEFS) to respond to the Commission's 1987 report. CAEFS reported major concern was the limited perception people in the court process had of the position and experiences of women in society who were in conflict with the law. A feminist framework perspective was described as imperative to correct this. The essential connection between gender and criminal law is best summarized in the conclusion of the CAEFS report (1988:20). It states:

The criminal law has never been "our" criminal law, if "our" is to reflect the lives of women and men. It has been drafted, enforced, and reformed primarily by men, for men. Although beyond the purview of this consultation, the substantive criminal law is in need of reform efforts that take issues of gender, race and class seriously" (Mohr, 1990:484).

It is impossible for judges to make informed and fair decisions without accounting for women's experiences and social contexts. It needs to be acknowledged that women and men experience life differently. Educating people involved in the legal processing of offenders is necessary to dispel harmful stereotypes of female offenders. Unfortunately, since the publication of the 1988 CAEFS study that proposes this,

little has changed within the criminal justice process, the adequacy of Canadian research on disparity and the sentencing treatment of women offenders.

(iii) Non-Consideration of White-Collar Crime and Social Status

The third concern with sentencing disparity research is the failure to consider white-collar crime. Hagan, Nagel and Albonetti (1980) suggest two factors account for this. First, they claim uncertainty surrounds the definition of white-collar crime; that is, no one knows who and what to study. They state:

[t]he difficulty is that not all white-collar crimes (e.g., income tax violations) are committed by white-collar persons, and not all white-collar persons commit white-collar crimes (Hagan et al., 1980:803).

The second reason is simply that white-collar criminals are believed to be beyond incrimination (803). This view is challenged in this research.

Two concerns arise when social status, which is highly correlated with white-collar crime, is considered. Hagan et al. (1980) claim the existing research findings are inconclusive: they both support and disclaim a relationship. And second, Hagan et al. (1980:802) point out that the majority of studies use inadequate data sets: "...samples considered in...studies consist almost entirely of low status defendants, making this research mainly a matter of within-rather than between-class comparisons". Similarly, Goff (1993:248), in his research focus upon white-collar crime,

points out that:

[t]he conclusions from foregoing [sentencing disparity] studies have been disputed on the ground that they fail to look at 'persons who might reasonably be regarded as white-collar criminals' (Geis, 1991:19). Since the studies use an offense-based criterion, there is a strong possibility that many individuals convicted of such offenses did not hold positions of occupational prestige and power, which are the qualities of white-collar criminals that received the attention of Sutherland.

Daly (1989b:788), in her focus upon women and white-collar crime, further states:

[u]ntil we understand what offenses and people are subject to criminal proceedings, the parameters of discretion and selection bias will not be known. And until we have a grasp on the variable nature of crime in the statutory white-collar domain, theoretical efforts will flounder.

4. Transcending the Methodological Confines of Research on Women, Sentencing and Disparity

Not only should research examine the influences of gender-related statuses, ethnicity, and disparate processing at early decision points in the criminal justice system, but...studies should use methodologies more appropriate to the complex subject matter in question (Odubekon, 1992:343).

The "complex subject matter" of this inquiry is disparity in sentencing of blue- and white-collar female and male theft and fraud offenders. As revealed, individualized and fragmented methodologies have been used to examine this area with inconclusive results. An all-encompassing methodology, grounded theory, is able to produce an enhanced quality of research. The grounded theory approach, according to Glaser (1978:2),

is based on the systematic generating of theory from

data, that itself is systematically obtained from social research. Thus the grounded theory method offers a rigorous, orderly guide to theory development that at each stage is closely integrated with a methodology of social research.

The grounded theory approach is congruent with the aim of feminist criminology in that it incorporates distinctly qualitative and quantitative research methodologies. Furthermore, it is complementary to the socialist feminist framework. This research is guided by the grounded theory approach.

The methodology must also account for the social structure. In 1988, Daly and Chesney-Lind stated:

[u]nlike the previous statistical studies based on gender based disparities in court outcomes,...more recent studies of legal processes analyze the interplay of gender, sexual familial ideology, and social control in courtroom discourse and decision making at both the juvenile and the adult levels. This...addresses how gender relations structure decisions in the legal process, rather than whether men and women are treated "the same" in a statistical sense (Daly and Chesney-Lind, 1988:128-129).

For transcendence from the confines of malestream criminology to occur, methodology must be examined in conjunction with the social structure. Daly and Chesney-Lind (1988) claim existing problems that are impeding the progress of building theories of gender and crime be bracketed. Their argument is based on a "sceptical [view] of previous representations of girls' or women's lives and...[the need for]...a better understanding of their social worlds" (Daly and Chesney-Lind, 1988:121). The problem with the paternalism and differential treatment focus of current sentencing research is that it does not question

the androcentric canon of criminology. Instead, it reinforces the idea that mainstream criminology has effectively remained malestream (Gelsthorpe and Morris, 1988:96). Ultimately, it ignores the structural problems that give rise to an inequitable criminal justice system. The principal issue of leniency focussed upon in traditional criminology must be bracketed.

In summary of the need for further research in the area of gender and sentencing and incorporation within the methodology the grounded theory approach and impact of the social structure, Hatch and Faith (1989:451-2) state:

[c]onsidering disparity between the sexes, Patricia Brantingham et al. [Analysis of Sentencing Disparity] found that, in two unnamed Canadian cities they studied, sex initially appeared to be a good predictor of incarceration, but when other factors were considered, the effect of sex was reduced substantially....On the basis of this limited research, **no definitive statement can be made concerning sentencing disparity between sexes in Canada** (emphasis added).

And when white-collar crime is considered, as will be explored next, a definitive statement once again cannot be made.

D. GENDER, WHITE-COLLAR CRIME AND THE CRIMINAL JUSTICE PROCESS

White-collar crime has historically been confined to a male domain. Empirical evidence illustrates that "[f]or the most part, women in conflict with the law are non-violent offenders who commit petty crimes of economic gain" (Johnson, 1987:43). Congruent with the treatment of women in

conventional criminology, when women who commit white-collar crimes are considered, it is as correctional afterthoughts and their behaviour is explained using male norms.

The pioneer research of Sutherland (1949) concludes that corporations and their officials receive preferential treatment in comparison to conventional (blue-collar) criminals when sentenced. However, neither Sutherland nor his contemporaries provide evidence to support all white-collar criminals consistently receive preferential sentencing treatment. The research of Hagan and Nagel (1982), Daly (1989b), and Hagan and Parker (1985) suggest there may be intra- as well as inter-class variation. Daly (1989b), whose research focuses upon gender and white-collar crime, states:

[m]ost research on the sentencing of white-collar offenders focusses on class-based disparities; however important that question, more basic questions are overlooked. Who are these white-collar offenders and what is the nature of their acts? Is there any relationship between celebrated cases of white-collar crime described in case studies and most defendants prosecuted for white-collar crime in the court?" (770).

As revealed, research on disparity in the sentencing of both male and female criminal offenders is inconclusive. Within the specific realm of white-collar crime, it is even less concise. And when the issue of gender is introduced, Canadian research is once again non-existent. This section will define white-collar crime and examine within the literature its relation to gender and the sentencing process, focussing specifically upon: (1) social economic status, and (2) other relevant factors such as the social organization of

criminal justice, power and gender.

1. What is White-Collar Crime?

Sutherland (1949) defines white-collar crime "approximately as a crime committed by a person of respectability and high social status in the course of his occupation" (9). The work of Hagan and Parker (1985) is cited by Goff (1993) as the best example of research to follow through on representing the intentions of Sutherland's original work. Hagan and Parker, referring to Geis (1984), state:

"Sutherland, for all his definitional uncertainty, was particularly concerned about the use of positions of power and influence in the corporate, professional, and political world to abuse and even exploit others. Neither education nor income nor even status, which Sutherland stressed--actually cut to the scientific-ideological essence of the concept." The problem is that a contemporary understanding of the concept of status glosses over what is potentially most salient in Sutherland's attention to differential social organization: the differential power that derives from structural location in the social organization of work" (1985:302).

The definition of white-collar crime has been argued for half a century (see Coleman, 1989). Instead of contributing to the debate, Daly (1989b) in her research discusses two characteristics; the offender and the offense.

An offense-related approach focuses on how a crime is committed, while an offender-related approach focuses on a particular group of people- those in high-status or "respected" occupations or in positions of "power" (Daly, 1989b:770).

Hagan (1992) further points out that the social status correlated with a white-collar offense, measured by class, has

to be accounted for. He states:

...[i]t is important to note that locating white-collar offenders in terms of their ownership and authority positions in occupational and organizational structures is a key part of the class analysis of white-collar crime (Geis, 1984; Hagan and Parker, 1985; Weisburd et al., 1990). Sutherland's emphasis on 'respect' and 'status' in defining white-collar crime only begins to open up the issue of class position and its role in the understanding of white-collar crime. A key element of class is the power to commit major white-collar crimes that ownership and authority positions in occupational and organizational structures make possible" (Hagan 1992, in Linden, 1990:452).

This research adheres to Sutherland's focus on social class and its role in defining white-collar criminals. In particular, it focuses on the position of women in the social structure. Equally important, as identified by Daly (1989b), characteristics of the white-collar criminal require examination. Wheeler and Rothman (1982) place white-collar offenders into three groups: (1) individual offenders who do not use occupational or organizational roles, (2) occupational offenders, and (3) organizational offenders (Hagan 1990, cited in Linden, 1992:461). The focus of this research is individual and occupational offenders, which brackets the organization as offender.

2. Sentencing Disparity and White-Collar Crime

Countless research efforts attempt to explain the preferential treatment of white-collar criminals to blue-collar criminals in criminal justice sentencing. Consistently, the conclusions are highly dependent upon the focus and methodology of the study. As explored, the majority

of research in the area of white-collar crime is congruent with the malestream focus of criminology. To this end, this review of the literature on sentencing disparity and white-collar crime falls victim to many of the criticisms as those in the general area of sentencing disparity, especially the neglect to acknowledge women.

Within the domain of white-collar crime research, the focus of attention is social economic status. This is exemplified in the research of Hagan, Nagel and Albonetti (1982), Hagan (1992) and Wheeler, Weisburd and Bode (1982).

(i) Social Economic Status

Hagan, Nagel and Albonetti's (1982) research focusses upon defendants' income as an indicator of social standing. A premise to Hagan et al.'s research is that the organizational system must be accounted for in any explanation of the sanctioning of white-collar offenders. Hagan et al. propose "individual case decisions [must] be understood within the larger context of input and output relationships that exist between various organizational components of the criminal justice system" (1982:261).

Hagan et al. (1982) conclude from their research that most white-collar crime involving white-collar persons is characterized by a diffuseness of victimization and an absence of unimplicated witnesses. As a result, a proactive organization of legal resources usually is required to seek out and build successful cases in what is regarded as a cost-efficient manner. Thus it is frequently only the participants in these criminal events who can provide information essential to build successful cases, and prosecutorial negotiation becomes a key part of the proactive prosecution of these cases. Furthermore, to make this negotiation work, a connection must be

forged between the prosecutorial and judicial subsystems, such that the promises and concessions offered white-collar offenders actually are confirmed at sentencing (272).

The conclusion is that high income white-collar offender's receive the most lenient sanctions.

Second, Hagan's 1992 research focuses on the relationship between the social organization of work, social class position and white-collar crime. He states:

if it is true that white-collar crime is positively related to class position, it is also reasonable to ask why it should be. The answer may lie in the power derived from ownership and authority positions in the occupational and organizational structures of modern corporations. These positions carry with them a freedom from control that may be criminogenic (456-457).

According to Hagan (1992):

the structure of the modern corporation allows a power imbalance to prevail in which those individuals at the top experience a relative freedom, while those at the bottom often experience pressure applied from the top that encourages various kinds of white-collar crime. The point has to be made that the corporate form itself can be used effectively to perpetrate 'bigger and better crimes' than can be achieved by individuals acting alone. Access to these corporate resources is a unique advantage of class positions involving ownership and authority in business organizations. It is in this sense that it can be said that the social organization of work itself is criminogenic in the world of the modern corporation (462).

Third, Wheeler, Weisburd and Bode's (1982) study focusses on the relation between the sentencing of white-collar offenders in the federal court system and social class background. The identified research variables centre upon judicial attitudes toward sentencing in conjunction with individual characteristics of white-collar offenders. Wheeler

et al.'s focus upon judicial attitudes is reflective of one stage in the sentencing process and within it accounts for the two sub-stages: the decision to incarcerate and the decision on length of incarceration.

Wheeler et al. (1982) conclude:

[t]he key elements to those decisions include: a) the seriousness of the harm, as evidenced by maximum statutory exposure to imprisonment, the dollar loss of victims, the complexity and sophistication of the offense, and the spread of the illegality over space; b) characteristics shedding light on the blameworthiness of the offender, such as his/her socioeconomic status, past social and criminal career, and role in the offense; c) variables reflecting the statutory category of offense and the district in which it is committed; and d) the sex of the offender....Finally, the data reveal a consistent and strong positive relationship between socio-economic status and the severity of the sentence (658).

In addition to social economic status, several other factors are commonly examined for their impact upon sentence severity.

(ii) Other Relevant Factors

Other relevant factors that have an impact upon the sentencing of white-collar offenders are: (1) the social organization of criminal justice, (2) the issue of power, and (3) gender. Each will be addressed.

First, focussing upon the social organization of criminal justice, Goff (1993) compiled a review of the literature on the sanctioning of corporate offenders. He concluded support for the lenient sentencing of white-collar offenders. "The mean sentence for 'high-income white-collar crimes' was 4.98 years, but was 6.18 years for 'high-income common crimes'. For 'low-income white-collar crimes' the mean sentence was

4.38 years, while it was 7.31 years for 'low-income common crimes'" (Goff, 1993:245). According to Goff, certain problems continue to exist, regardless of the number of studies conducted. A main one is that basic questions raised by Sutherland in his research on white-collar crime remain unresolved. For example, "[m]issing is an understanding of why there is so much discretion and variation among the judiciary" and the issues of power and persuasion are being ignored (Goff, 1993:258).

Second, focussing upon power, "Hagan and Parker studied securities violations in Ontario, Canada, between 1965 and 1983. They employed 'relational indicators' such as ownership and authority as determinants of white-collar power. These criteria located individuals in class positions directly relevant to the perpetuation of their offenses" (Goff, 1993:249). The research was in answer to the criticism that high-status crimes are not looked at and only low class white-collar crimes are focussed upon. Hagan and Parker (1985) "report that securities violators who make use of organizational resources commit crimes that involve larger numbers of victims and are broader in their geopolitical spread" (Hagan, 1992: cited in Linden, 1992:461).

Similar to Hagan and Parker's study (1985),

...Shapiro chose location within the organizational hierarchy as her indicator of social standing...She found enforcement varies according to the status of the offenders within the organization. Lower status offenders are usually charged with criminal offenses, whereas upper-status offenders are diverted in many cases

to the civil or administrative courts (Goff, 1993:250).

And third, focussing upon gender and using the data of Wheeler, Weisburd and Bode (1982) and expanding upon their finding of gender as a strong predictor of sentencing disparity, Daly (1989b) studied the relationship between gender and white-collar crime. The results of Daly's (1989b) research raise questions about the arrest data and the crimes and offenders focussed upon in white-collar sentencing samples.

First, Daly (1989b) makes explicit the danger involved in correlating criminal offense categories with white-collar crime categories. For example, to commit forgery, fraud or embezzlement, one need not be part of the white-collar world. She states: "[s]cholars would do well to heed Wheeler et al.'s (1988:334) advice: 'it [is] dangerous to infer the 'white-collariness' of an offense from its statutory category alone'" (790). And second, Daly claims "[t]he multiple influences of gender, class and race relations, both within and outside work occupations, should...be investigated. These relations not only generate many varieties of white-collar crime, they also undoubtedly play a role in who is caught and prosecuted for white-collar crime" (Daly, 1989b:790-791).

Odubekun (1992) adopts a structural approach to differential sentencing in her research on gender and sentencing disparity. She states a structural approach is necessary to understand differential sentencing in terms of

gender. She points out that "[a] structural approach takes account of the wide range of factors affecting sentencing. This includes not only relevant variables often excluded from criminological studies, but also the processual nature of criminal justice decisions" (343).

Odubekun's structural approach and focus upon gender is congruent with the study of white-collar offenders and the status attributed to them. Odubekun (1992) states the work of Kruttschnitt (1984) reveals judicial decisions are based on consideration of social factors, mitigating the severity of women's dispositions. Hagan and Bumiller (1983:41) state:

This approach assumes that it is not biological sex that results in leniency, but that the statuses accruing to women as a result of their gender- with the socially constructed implications- moderate the severity of dispositions for women. This view implies the need for a "structural" understanding of the role of gender as opposed to the "linear-processual" framework that still dominates the thinking in this research (Hagan and Bumiller, 1983).

A structural accounting places gender within a social framework, which in turn provides a more realistic model for approaching the study of gender's impact upon criminal justice dispositions (Odubekun, 1992:345).

This chapter has reviewed the neglect of the following areas to incorporate gender as a relevant factor: traditional criminology, traditional and contemporary theories of women's criminal conduct, and sentencing disparity and white-collar crime research. It was pointed out, as well, that when gender was accounted for, it was based on biased, sexist and

incomplete assumptions about women. The next chapter outlines this inquiry's definition of the research hypothesis and six control factors which accounts for gender.

IV. RESEARCH HYPOTHESIS

This chapter outlines the research hypothesis and six control factors. The hypothesis to be tested in this inquiry is:

1. female offenders who commit theft and fraud offenses will receive harsher sentences than male offenders who commit theft and fraud offenses, controlling for whether the offense is white- or blue-collar and the factors listed below;
2. Blue-collar (Winnipeg Police Service) offenders who commit theft and fraud offenses will receive harsher sentences than white-collar (Royal Canadian Mounted Police) offenders who commit theft and fraud offenses, controlling for gender and the factors listed below;
3. female blue-collar (Winnipeg Police Service) offenders who commit theft and fraud offenses will receive harsher sentences than female white-collar (Royal Canadian Mounted Police) offenders who commit theft and fraud offenses, controlling for gender and the factors listed below; and
4. male blue-collar (Winnipeg Police Service) offenders who commit theft and fraud offenses will receive harsher sentences than female white-collar (Royal Canadian Mounted Police) offenders who commit theft and fraud offenses, controlling for gender and the factors listed below.

The hypothesis is defined within the framework of socialist feminist theory. It is noted, once again, that the framework of socialist feminist theory guides this inquiry and the intention is not to prove or disprove the theory.

The six control factors are:

1: POLICE INVESTIGATION

The greater the police investigation factors of amount of time placed by police in the investigation of a case and the level of case complexity, the harsher the sentence severity.

2: CRIMINAL HISTORY

The greater the criminal history, the harsher the sentence severity.

3: JUDICIAL DECISION MAKING

The greater the judicial decision making factors of offense seriousness and degree of victimization, the harsher the sentence severity.

4: SOCIAL ECONOMIC STATUS

The lower the social economic status, the harsher the sentence severity.

5: OFFENDER CHARACTERISTICS

The lower the offender characteristics, the harsher the sentence severity.

6: PERSONAL CHARACTERISTICS

The lower the personal characteristics, the harsher the sentence severity.

The next chapter outlines the research methodology used to test the hypothesis.

V. RESEARCH METHODOLOGY

With respect to sentencing, the empirical evidence has been contradictory. Some studies report no sentencing disparity while others report disparity. These latter studies offer a variety of explanations for the differential. To complicate matters further, a few empirical studies even suggest that women may in fact be treated more severely than men (Zingraff and Thomson, 1984:408).

Sentencing studies reach diverse conclusions mainly because they differ in sample sets and research variables. This chapter will define the sample and dependent and independent variables of this research.

A.

SAMPLING

The white-collar crime data for this research was gathered from the Royal Canadian Mounted Police and the blue-collar crime data was gathered from the Winnipeg Police Service. The white-collar crime data sample was obtained at the Royal Canadian Mounted Police "D" Division Commercial Crime Section in Winnipeg, Manitoba. This section is comprised of three investigational units: Provincial, Federal and Special Projects. The Provincial Unit deals with Criminal Code offenses, the Federal Unit focusses upon Federal Statutes, such as the Bankruptcy Act, U.I.C. Act and Farm Improvement Loans, and the Special Projects Unit is designed to combat organized crime and Criminal Code sanctions regarding proceeds of crime (Royal Canadian Mounted Police, 1992:5). The RCMP Commercial Crime Section investigates

complaints alleging criminal activity arising from financial transactions. These are offenses against property rights and constitute theft and fraud. Theft is taking of property without consent and fraud is obtaining property by deceit.

The white-collar crime data consists of all completed⁷ RCMP "D Division" Commercial Crime Section cases between January, 1988 and September, 1994. The data consists of 53 case files involving 83 criminally charged offenders. There are 17 Federal Unit cases, 32 Provincial Unit cases, 2 Special Project Unit cases and 2 unknown unit cases. The time period was selected as follows: When the investigation of a case is completed, all files are archived at the RCMP Headquarters in Ottawa, Canada. After approximately eight years, all files are destroyed and a record of their content is no longer available. In October, 1994, all existing case files archived in Ottawa were forwarded for my use in Winnipeg and from those available, the data set was defined.

All Commercial Crime Section completed case files within the six year and nine month time frame were not located. The precise number of unlocated cases is unknown; however, it is not believed to be in excess of 20. This number is based on information provided by the Sergeant in command of the Commercial Crime Unit in Winnipeg who had more than 8 years experience on the unit. The missing 20 cases were "lost in

⁷ A completed case is defined as one which is no longer being investigated and a sentence has been issued.

the shuffle". The RCMP Sergeant does not believe that the missing cases contained information diverse in comparison to that collected. Twenty missing cases, however, is 36% of the data sample. Based on the significance of this percentage and the fact that the exact number of missing cases is unknown, the data's representativeness should be regarded with caution.

The blue-collar data sample was obtained at the Winnipeg Police Service Department of Archives in Winnipeg, Manitoba and consists of persons charged with either theft or fraud offenses. One specific Winnipeg Police Service unit is not designed to focus upon these offenses, as does the RCMP.

Individuals charged with either theft or fraud offenses in 1993 and within the months of March, June, September and December were compiled onto a master list produced by the Winnipeg Police Service Bureau of Records. The months were chosen for their representation of four different time periods within a year that includes the month of December, in which the peak number of arrests occur. From the list, every 13th case was retrieved to compile a sample size of 211 files. A sample size of 211 was defined because it is roughly twice the size of the white-collar sample. The representativeness of the sample size was concluded by tabulating mean sentence differences for 50% of the data sample and comparing them to tabulated mean sentence differences for 75% of the data and 100% of the data. The results were inordinately similar and so the blue-collar data set was concluded at 211 files.

Once again, availability of data determined the time period from which the data was gathered. The files of easiest retrieval for the Winnipeg Police Service Bureau of Records were for the year previous (1993) to which they were being requested (1994).

The diverseness of the white-collar and blue-collar data sets must be regarded with caution. Of greatest importance is the diversity in time periods. The entire data sample was compiled to account for a wide range of types of offenders within the theft and fraud offense categories, rather than a statistically representative sample. Three prime factors governed this decision. The first is that the categories of theft and fraud entail significant female involvement, which enables statistical comparisons to be made. Second, female participation in theft and fraud offenses has consistently risen over time and is continuing to today (Carrigan, 1991:280). And third, the data allows for unique comparisons of blue- and white-collar offenses. It is also important to note that for the years from which the data sample was compiled, 1988 - 1994, no federal or provincial law reforms that would affect the data's accuracy were implemented.

B.

MEASUREMENT

1. Dependent Variable and its Indicators

The dependent variable is sentence severity. The measurement of sentence severity is based upon increasing

proximity of an individual to incarceration. The eight categories of sentence severity were determined after reviewing the data sets and consulting with an officer of the Winnipeg Police Service. The eight categories are:

1. * ACQUITTAL
ACQUITTED (INCLUDING ABSOLUTE DISCHARGE)
2. * STAY OF PROCEEDINGS
STAY OF PROCEEDINGS (INCLUDING RESTITUTION PAID)
3. * SUSPENDED SENTENCE UP TO 1 YEAR
SUSPENDED SENTENCE &/OR PROBATION WITH OR WITHOUT SUPERVISION
1-12 MONTHS
4. * SUSPENDED SENTENCE UP TO 4 YEARS & FINE AND/OR RESTITUTION
* SUSPENDED SENTENCE & PROBATION AND/OR RESTITUTION AND/OR
* COMMUNITY SERVICE HOURS AND/OR COUNSELLING 1-12 MONTHS,
* SUSPENDED SENTENCE &/OR PROBATION WITH OR WITHOUT SUPERVISION
13-36 MONTHS,
* SUSPENDED SENTENCE & PROBATION AND/OR RESTITUTION AND/OR
* COMMUNITY SERVICE HOURS AND/OR COUNSELLING 13-36 MONTHS,
* SUSPENDED SENTENCE & PROBATION AND/OR RESTITUTION AND/OR
* COMMUNITY SERVICE HOURS AND/OR COUNSELLING 37-48 MONTHS
* FINE AND/OR RESTITUTION
5. * PROBATION UP TO 1.5 YEARS & TIME IN CUSTODY
* PROBATION OR PROBATION PLUS FINE AND/OR RESTITUTION 1-12
MONTHS AND/OR CONDITIONAL DISCHARGE 1 - 12 MONTHS AND/OR
* COMMUNITY SERVICE WORK 1 - 12 MONTHS,
* PROBATION OR PROBATION PLUS FINE AND/OR RESTITUTION 13-36
MONTHS AND/OR COMMUNITY SERVICE WORK
* TIME IN CUSTODY
6. * INCARCERATION UP TO 2 YEARS
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 1-6 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 1-6 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION,
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 7-12 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 7-12 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION,
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 13-24 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 13-24 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION,
7. * INCARCERATION 2 - 4 YEARS
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 25-36 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 25-36 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION,
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 37-48 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 37-48 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION,
8. * INCARCERATION 4 - 7 YEARS
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 49-60 MONTHS OR
INCARCERATED IN THE CUSTODY OF ATTORNEY GENERAL 49-60 MONTHS

PLUS FINE AND/OR RESTITUTION OR PROBATION,
* INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 61-84 MONTHS OR
INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 61-84 MONTHS PLUS
FINE AND/OR RESTITUTION OR PROBATION.

2. Independent Variables and Their Indicators

The six independent variables are measured by congruous indicators. They are:

1. POLICE INVESTIGATION

TIME

NUMBER OF FILES
NUMBER OF PEOPLE CHARGED
SPREAD OF ILLEGALITY

COMPLEXITY

COMPLEXITY/SOPHISTICATION IN LAYING A CHARGE
COMPLEXITY OF OFFENDER

2. CRIMINAL HISTORY

PRIOR CRIMINAL RECORD
EXTENT OF PRIOR RECORD
PRIOR NUMBER OF CONVICTIONS
OTHER PRIOR OFFENSE INFORMATION

3. JUDICIAL DECISION MAKING

SERIOUSNESS

OFFENSE(S) CHARGED WITH
TYPE OF OFFENSE CHARGED WITH
ATTEMPTED ECONOMIC GAIN OR SAVINGS
TYPE OF COURT

VICTIMIZATION

TYPE OF VICTIM(S)
DEGREE OF HARM INFLICTED UPON VICTIM
(OTHER THAN MONETARY)

4. SOCIAL ECONOMIC STATUS

OCCUPATION
RESOURCES USED IN THE CRIME
CLASS OF WORKER
CLASS/OCCUPATION CATEGORY

5. OFFENDER CHARACTERISTICS

CANADIAN CITIZEN
RACE

6. PERSONAL CHARACTERISTICS

UNDERGOING TREATMENT FOR PHYSICAL AND/OR MENTAL ILLNESS
DRUG/ALCOHOL DEPENDENCE
REMORSE FOR OFFENSE COMMITTED

This chapter has identified the sample and dependant and independent variables. It is necessary to clearly identify both so that accurate future research comparisons can be made. The next chapter presents the data analysis and findings of this inquiry.

V. DATA ANALYSIS

This chapter presents the data analysis and summarizes the findings of the influence of gender and whether the offense is white- or blue-collar on sentence severity. First, highlights of the sample characteristics are provided. Second, the approach to the data analysis is defined. And third, analysis of the research hypothesis is explored.

A. SAMPLE CHARACTERISTICS

Highlights of the data characteristics provide a conceptual overview of the data set and is located in Appendixes A, B, C, and D in both written and table forms. Peculiarities between the two data sets are reviewed here.

Individuals who commit blue-collar offenses are local (within Winnipeg) while the white-collar offenses are committed on a local, national and international basis. Female offenders comprise 43.4% of the blue-collar data and only 15.7% of the white-collar data. 64.3% of the white-collar data consists of crimes committed by greater than one person while 80.3% of the blue-collar data consists of crimes committed by one person. 35.4% of the blue-collar offenders are Aboriginal and 52.5% Caucasian; in comparison 3.7% of the white-collar offenders are Aboriginal and 92.6% Caucasian. The social economic status of the blue-collar offenders is consistent at under \$35,000 and for white-collar offenders it

is under \$35,000 for 35.3% of offenders, over \$35,000 but below \$100,000 for 41.2% of offenders and over \$100,000 for 23.5% of offenders.

B. DATA ANALYSIS

The Statistical Analysis System (SAS) is used to empirically analyze the white-collar and blue-collar data sets by summarizing the data and providing statistical inferences. Frequency tables are used to summarize the data sample characteristics. Frequency tables are tabulated versions of the data based on each of the variables. The frequency tables will present a count (frequency) of the number of observations for a given variable.

Comparison of sentence severity will be conducted through statistical inferences, produced by tests of mean sentence differences. "Statistical testing involves verifying or refuting statements concerning properties of the population, with some probability of error, based on data from a subset of that population" (Lewis and Ford, 1987:67). The mean difference will be produced with the influence of other known causes removed. The analysis of variance will be produced within a general linear model framework.

Statistical significance is also to be calculated for mean sentence differences. Statistical significance tests compute the probability that samples drawn at random from the population will produce results equal to or more extreme than

the one at hand. The following section presents the findings of the data analysis using the SAS program.

C. ANALYZING THE HYPOTHESIS

Table A presents the mean sentences for gender. The gender mean sentence difference is observed after the influence of the control factors and police type have been removed. The entire data sample is used in the analysis.

TABLE A

	MEAN SENTENCE	STATISTICAL SIGNIFICANCE
GENDER		
FEMALE	2.99	
MALE	3.58	
MEAN SENTENCE DIFFERENCE	.59	.0001

Focussing upon gender, this table shows the sentence mean for female offenders is 2.99 and for male offenders it is 3.58. Translated into the scale category, female offenders receive an average sentence harshness of up to one year suspended sentence while male offenders receive an average sentence harshness of up to four years suspended sentence and a fine and/or restitution. The mean sentence difference for gender is .59. The hypothesis that female offenders who commit theft and fraud offenses will receive harsher sentences is not supported. The test of significance is significant at .0001.

Table B presents the mean sentences for white-collar

(Royal Canadian Mounted Police) and blue-collar (Winnipeg Police Service) offenses. The mean sentence difference is observed after the influence of the control factors and gender have been removed. The entire data sample is used in the analysis.

TABLE B

	MEAN SENTENCE	STATISTICAL SIGNIFICANCE
WHETHER THE OFFENSE IS WHITE- OR BLUE-COLLAR		
WHITE-COLLAR (ROYAL CANADIAN MOUNTED POLICE)	3.00	
BLUE-COLLAR (WINNIPEG POLICE SERVICE)	3.56	
<i>MEAN SENTENCE DIFFERENCE</i>	<i>.56</i>	<i>.0001</i>

Focussing upon police type, what this table shows is the sentence mean for white-collar offenses is 3.00 and 3.56 for blue-collar offenses. Translating these findings into the scale category, individuals who commit white-collar offenses receive an average sentence harshness of up to one year suspended sentence while individuals who commit blue-collar offenses receive an average sentence harshness of up to four years suspended sentence and a fine and/or restitution. The mean sentence difference is .56. The hypothesis that blue-collar offenders who commit theft and fraud offenses will receive harsher sentences is supported. The statistical significance is .0001 which provides evidence for acceptance of the hypothesis.

Table C presents the mean sentences for female white-collar (Royal Canadian Mounted Police) and blue-collar (Winnipeg Police Service) offenses. The white-collar and blue-collar female mean sentence difference is observed after the data is sorted and only cases involving females are used and the influence of the control factors and gender have been removed.

TABLE C

	MEAN SENTENCE	STATISTICAL SIGNIFICANCE
WHETHER THE OFFENSE IS WHITE- OR BLUE-COLLAR		
WHITE-COLLAR OFFENSE (ROYAL CANADIAN MOUNTED POLICE)	2.62	
BLUE-COLLAR OFFENSE (WINNIPEG POLICE SERVICE)	2.85	
MEAN SENTENCE DIFFERENCE	.23	.0922

Focussing upon whether the offense is white- or blue-collar and female offenders, what this table shows is the sentence mean for female committed white-collar offenses is 2.62 and for female committed blue-collar offenses it is 2.85. Translating this into the scale category, female committed white-collar and blue-collar offenses are extremely close in sentence harshness with it being a stay of proceeding with or without restitution. The mean sentence difference is slight at .23. The hypothesis that female blue-collar offenders who commit theft and fraud offenses will receive harsher sentences is supported. The test of statistical significance is .0922

which is not significant, however, it is very close to the standard of .05.

Table D presents the mean sentences for male white-collar (Royal Canadian Mounted Police) and blue-collar (Winnipeg Police Service) offenses. The white-collar and blue-collar male mean sentence difference is observed after the data is sorted and only cases involving males are used and the influence of the control factors and gender have been removed.

TABLE D

	MEAN SENTENCE	STATISTICAL SIGNIFICANCE
WHETHER THE OFFENSE IS WHITE- OR BLUE-COLLAR		
WHITE-COLLAR OFFENSE (ROYAL CANADIAN MOUNTED POLICE)	3.45	
BLUE-COLLAR OFFENSE (WINNIPEG POLICE SERVICE)	4.03	
MEAN SENTENCE DIFFERENCE	.58	.0002

Focussing upon whether the offense is white- or blue-collar and male offenders, this table shows the sentence mean for male committed white-collar offenses is 3.45 and for male committed blue-collar offenses it is 4.03. Males who commit blue-collar offenses receive an average sentence harshness of a suspended sentence up to four years and a fine and/or restitution, while males who commit white-collar offenses receive an average sentence harshness of a suspended sentence up to one year with or without restitution paid. This table shows a mean sentence difference of .58. The hypothesis that

male blue-collar offenders who commit theft and fraud offenses will receive harsher sentences is supported. The test of significance is significant .0002.

This chapter has explained the Statistical Analysis System program used to analyze the data and the findings of the analysis regarding the influence of gender and whether the offense is white- or blue-collar upon sentence severity for theft and fraud offenders. The implications of these findings upon the treatment of women within the criminal justice process are explored in the next chapter.

VI. RESEARCH IMPLICATIONS AND POLICY RECOMMENDATIONS

This chapter explores the conclusions drawn from the data analysis and elaborates on them through presentation of policy recommendations. The chapter concludes with suggestions for future areas of study.

A. CONCLUSION

Conclusions regarding the influence of gender and whether it is a white- or blue-collar crime upon sentence severity will be examined in this section and findings explained. The principal finding is that gender and whether the offense is white- or blue-collar has a significant impact upon sentence severity, independent of the identified control factors. It is important to note, once again, that the aim of this research is not to prove or disprove socialist feminist theory. Rather, the theory is used to frame the inquiry.

1. Gender

Gender has a significant effect, independent of police type and the six control factors, upon sentence severity. Male offenders receive the harshest sentences. This finding suggests differential and preferential treatment of female offenders within the sentencing process. This conclusion is congruent with the findings of Daly and Bordt in their 1995 review of sentencing research. They state:

Blumstein et al.'s (1983:114) observation, made more than a decade ago, remains relevant today: "Sex discrimination in sentencing poses a somewhat unique problem." As in previous reviews of the literature but more systematically, we find that sentencing studies do not conform to the sociological wisdom that a disadvantaged group (women) is subject to more severe forms of punishment (Daly and Bordt, 1995:159).

2. Police Type

Whether it is a white-collar or blue-collar offense also influences sentence severity. Offenders who commit blue-collar offenses receive harsher sentences than offenders who commit white-collar offenses. This suggests, unlike the finding for gender, that the socially disadvantaged group (individuals committing blue-collar offenses) receive harsher sentencing treatment than the socially advantaged group (individuals committing white-collar offenses).

3. Police Type and Female Offenders

Focussing upon female committed offenses, sentence severity is influenced by whether the offense is white- or blue-collar. Females who commit blue-collar offenses receive harsher sentences than females who commit white-collar offenses. It is concluded female-committed blue-collar offenses are viewed as having a higher degree of seriousness/harm than female committed white-collar offenses. This finding is congruent with the sociological wisdom that white-collar offenses, which produce the greatest degree of harm and are of the greatest seriousness to society receive the least severe sentences (Goff and Reasons, 1986;

Messerschmidt, 1986).

4. Police Type and Male Offenders

Focussing upon male offenders, sentence severity is again influenced by whether the offense is white- or blue-collar. Males who commit blue-collar offenses receive harsher sentences than males who commit white-collar offenses. Once again, individuals of the lower social class receive harsher sentences than individuals of the higher social class. This finding is congruent with mainstream sociological thought that a socially disadvantaged group (male offenders who commit blue-collar offenses) receive differential and harsher treatment than a socially advantaged group (male offenders who commit white-collar offenses).

Overall, this research provides sound Canadian statistical support to the claim that males and individuals who commit blue-collar offenses receive harsher sentences than females and individuals who commit white-collar offenses. This finding suggests preferential treatment of female and white-collar offenders in the sentencing process. To this point in Canadian criminal justice research, this finding had only been speculated based upon the findings of American and British research, but it had not been empirically tested in Canada. Now, finally, the conclusion that females and individuals who commit white-collar offenses receive lenient sentencing treatment in comparison to males and individuals who commit blue-collar offenses is supported based upon facts

and not assumptions - which has guided the treatment of female offenders in criminology. The next section proposes three policy recommendations based upon the research conclusion.

B.

POLICY RECOMMENDATIONS

This section presents the research conclusion within the context of policy recommendations and suggested areas of future research. The recommendations focus upon initiating reform and improving the treatment of women with regard to sentencing disparity in the criminal justice process.

This inquiry has revealed extensive inequality in the Canadian criminal justice processing of offenders. Focussing upon gender and whether the offense is white- or blue-collar, male offenders and blue-collar offenders are sentenced more severely than female offenders and white-collar offenders. This inquiry clearly outlines the need for the Canadian criminal justice system to be more just. To address the unfairness within the system, it is recommended that (1) Canadian policy be implemented that focusses upon the education of all personnel involved in the processing of criminal offenders, (2) greater informed sentencing guidelines be established, and (3) alternatives to incarceration and treatment programming be encouraged and used.

1. Education

Sentence severity based on gender and whether the offense is white-collar or blue-collar exposes the unfairness of the current Canadian sentencing process. Criminal justice personnel must re-examine the social expectations they attach to offenses committed by males and females and to blue-collar and white-collar offenses; the findings of this research indicate biased expectations are guiding offender sentencing. The first suggested policy recommendation is educating judges and police officers (and all others involved in the criminal justice process) so that harmful beliefs are eradicated. The 1987 research of the Canadian Association of Elizabeth Fry Societies supports people within the sentencing process need to understand the position of women in society so they can make informed and fair decisions.

To educate criminal justice personnel, first an analysis should be done of the sentencing practices of individual judges and the charging practices of individual officers to reveal the current extent of disparity within the Canadian criminal justice process. By providing concrete evidence that disparity does exist, the "stage will be set" for the personnel to reflect upon their own belief systems and occupational practices.

"...[A]s feminist literature asserts, the legislative change [needs to] be accompanied by change at the personal level if it is ever to achieve goals of substantive equality" (Mohr, 1990:481).

As revealed in the literature review, sentencing

disparity research that focusses upon the influence of gender and whether the offense is white- or blue-collar is non-existent in Canada. The findings of this inquiry, therefore, are not surprising considering the structure of our current criminal justice system is NOT and CANNOT be based or supported by factual research.

Second, the education of judicial process practitioners must commence at the level of understanding the position of women and all offenders within Canadian society. Mohr (1990), a feminist writer, points out:

before legislators, judges, lawyers and other actors in the criminal justice process can be educated as to the "realities of women and crime", they must first understand something about the inequalities women suffer in Canadian society generally (482).

It is suggested education be incorporated into university practicums and officer training courses. The agenda for learning must focus upon a general understanding of the circumstances of "individuals", whether it be based upon gender, social class or a further factor. It is important, also, that these issues not be incorporated into the learning process as separate entities, or areas of specialization. Rather, an understanding of the issues must be built within the educational process. Comprehension of the circumstances of individuals within society will help reduce sentencing disparity based upon harmful and biased beliefs and expectations.

Furthermore, education should be ongoing with mandatory

workshops throughout the careers of criminal justice practitioners. Mohr (1990) suggests:

...the agendas of continuing education seminars for lawyers and judges [need to] give priority to issues of gender, race and class....Until judges are taught about the violence and poverty that exists in homes across the country, we cannot expect them to understand the 'impact' of their decisions on the lives of women they sentence daily....The call for education is overwhelming (483).

Specific to the role of gender, research of the Elizabeth Fry Society of Saskatchewan (1992) concludes:

legal professionals must become aware of the contextual issues surrounding the female offender. Sensitive treatment and measures which are meaningful to her life situation may only result by considering her history of sexual/physical/emotional abuse, poverty, cultural issues, lack of education and drug and alcohol problems (5).

Once again, the need for contextual understanding, and therefore education, is long overdue.

The findings of this research include the need for educational seminars on issues such as understanding social class phenomena and cultural sensitivity training. The data reveals that the very poor are sentenced the harshest: that those who steal lysol/hairspray for consumption, for example, are sentenced the harshest of all the blue-collar offenders. Further, Aboriginal offenders and the category of "other" (non-Caucasian) offenders receive harsher sentences than Caucasian offenders. The need for cultural sensitivity training is clear, for example, when those who do the sentencing do not understand that the lack remorse visibly shown by Aboriginal offenders is due to culture (LaPrairie,

1987). Awareness of this may affect sentence severity.

2. Sentencing Guidelines

The research of Popiel supported the implementation of sentencing guidelines in 1980. She stated that "[r]eview procedures for sentences and parole decisions, limitations on judicial discretion, and guidelines providing more coherence to these decisions would all be considerable improvements to the current discriminatory system of individualized sentencing" (85). By the late 1980's disparity in Canadian sentencing practices did not improve. The 1989 research of Hatch and Faith concluded:

[i]n Canada the judges have little legislative guidance to follow, other than a few statutory minima and maxima...This lack of overall philosophy and statutory guidance in sentencing may...be a factor in the creation of sentencing disparity, both across the country and between the sexes (451).

In 1996, concerns regarding sentencing disparity within the Canadian criminal justice system continue.

First, congruent with the policy recommendation regarding education, sentencing guidelines need to account for the circumstances of individuals within our society. In consideration of these circumstances, sentencing guidelines must be constructed based upon factual research. The current Canadian sentencing guidelines were created by males in consideration of male offenders. The inherent problems, such as a lack of contextual understanding, are presented throughout this inquiry.

It is suggested that Canadian social circumstances be considered in the creation of sentencing guidelines, taking into account influencing factors such as gender and whether the offense is white- or blue-collar. To account for the various circumstances of individuals, the guidelines should allow for flexibility for individualized sentences when warranted. The research of the Elizabeth Fry Society of Saskatchewan (1992) adds support to this policy recommendation in their statement that

[b]ecause women's financial situations are generally partially responsible for her conflict with the law, [a disposition of] a fine worsens the situation. The opportunity to pay off her fine through community service, counselling through probation, or through the Fine Option program, often remains meaningless unless childcare, transportation, culturally and gender sensitive placements are offered (5).

Second, sentencing guidelines should be neither voluntary nor compulsory, but, presumptive. A 1988 study conducted by the Canadian Sentencing Commission on issues relating to sentencing guidelines in the United States suggests "compulsory and truly voluntary guidelines have no, or almost no, impact especially on reducing disparity...A presumptive system allows judges to deviate from the guidelines provided such departures are explained in writing" (Canadian Sentencing Commission, 1988: 46). This position is strongly supported based upon the findings of this inquiry; the judiciary would be held accountable for and be considerate of individual circumstances. Furthermore, "[a] presumptive approach would optimize disparity reduction because it would ensure that

unlike cases were not treated in a like manner" (46). A sentencing guideline system of this nature is viewed as a proactive step toward further development of the Canadian sentencing process.

3. Addressing Alternatives to Incarceration and Treatment Needs

The third policy recommendation is that sentencing practices take into account individualized treatment needs and include greater use of alternatives to incarceration. The necessity of doing so is evident in the fact that theft and fraud, especially for female offenders, is rooted within influencing factors, such as an abusive interpersonal relationship (The Elizabeth Fry Society of Manitoba StopLifting Program, 1995) or on a psychological level with "symbolic replacement on the part of adult persons to replace objects, places or people that have been or are feared lost" (Cupchik and Atcheson, 1983:353).

Based on the findings of this research, that gender and whether the offense is white- or blue-collar are highly influential in determining sentence severity, a policy that supports and encourages alternatives to incarceration, focussing upon treatment needs, would assist in decreasing unwarranted disparity. Considering that the overall average sentence harshness involves a suspended sentence with probation and/or counselling and/or a fine, treatment needs must be identified for individual offenders and addressed.

Once again, education is a key factor in implementing this, informing all practitioners within the criminal justice system of the treatment needs of individuals and the available community treatment resources. Canadian sentencing practices must encourage offender treatment, otherwise, it is probable the offender will remain within the criminal justice system. And this cycle is forecasted as enlarging with the rearing of children within similar criminogenic environments.

At a Canadian consultation upon prison growth held among Deputy Ministers and Heads of Corrections in May, 1996, support for promoting and using alternatives to imprisonment, based upon treatment needs, was identified. It was acknowledged that many of the treatment programs that occur on a local level have positive evaluation results (Federal/Provincial/Territorial Deputy Ministers and Heads of Corrections, 1996:9). Furthermore, the report acknowledges:

[there is] little question that Aboriginal people have unique criminal justice needs and that innovative approaches based on traditional values hold promise. Excellent results have been experienced in projects such as Hollow Water in Manitoba....Circle sentencing, elder assisted parole decision making and similar approaches should be encouraged (13).

Despite the many positive suggestions of this report, there remains in Canada a long tradition of "good" and "just" recommendations that are not implemented. Not surprisingly, but nevertheless disheartening, this report treats "the offender" as one conceptual category. Gender is not acknowledged. The report does not recognize

[t]he need for diversion services [from the courts] for women has been identified throughout Canada, including community residences, employment training, and career counselling....Ideal programming would use community resources to the fullest extent but would not be reliant on volunteer services. Sentencing options would be expanded to take community programs into full account as both a base of needed resources and as a means of educating communities as to the specific social problems experienced by women in disadvantaged and/or abusive circumstances (Hatch and Faith, 1989:455).

In conclusion, this inquiry finds that inequality, based upon gender and whether the offense is white- or blue-collar, exists within our Canadian criminal justice process. Educating personnel involved in the criminal justice process, informed sentencing guidelines, and promoting alternatives to incarceration and addressing individual treatment needs are imperative for social and economic justice to be incorporated and eventually prevail within the Canadian sentencing process.

Taking immediate action against unwarranted sentencing disparity practices is encouraged, in light of the circumstances surrounding capital punishment in the United States. Focussing upon capital punishment, the research of Bohm (1996:2) exposes disparity in sentencing in the American correctional system and its devastating effects. His research findings include "a massive amount of evidence [which] shows that the death penalty continues to be administered in a discriminatory and illegal way against blacks and the killers of whites", that "although women commit approximately 20 percent of all criminal homicides, only one woman (less than one-half of one percent of all executions since 1976) has been

executed since 1976", that "nearly all of the people executed since 1976 have been poor (and wealthy people do commit capital crimes)", that a study by Coyle, Strasser and Lavalee (1990) reveals "many poor defendants sentenced to death had lawyers who had never handled a capital trial", and that

[o]nly 1-2 percent of all death-eligible murderers are executed, and legal factors do not adequately distinguish between those offenders eligible for death and those offenders who are executed....Frequently, when two offenders are involved in a capital crime and are caught, the first one to get to the prosecutor and to promise to testify against his or her partner usually escapes the death penalty (2).

Capital punishment is administered in the United States in an arbitrary and thus illegal way. In Canada, the situation fairs no better when issuing sentences for individuals who commit theft and fraud offenses. This inquiry provides empirical support that Canadian sentencing practices are influenced by the factors of gender and whether the offense is white- or blue-collar. In the United States 23 people have been legally executed in error in this century. However atrocious this may appear, it is suggested to be similar to the Canadian criminal justice processing system in that *the lives of certain "categories" of offenders in Canada have and are continuing to be destroyed by our unjust criminal justice process.*

In conclusion, before disparity in sentencing, based upon gender and whether the offense is blue- or white-collar, can be eliminated within our Canadian criminal justice process three further areas need to be examined. They are:

1. focus upon all stages of the criminal justice process. This will involve examination of all personnel involved in the criminal justice process, such as the judges, crowns, prosecutors, lawyers and law enforcement officers. The 1996 report submitted by the Federal/Provincial/Territorial Deputy Ministers and Heads of Corrections "stress[es] the importance of all components of the criminal justice system (police, courts, corrections) working together to achieve efficiency and effectiveness in their contribution to safe, just and peaceful communities";
2. incorporation of a qualitative, and therefore feminist, research aspect to the inquiry by interviewing court judges, police officers and others with influencing roles in the criminal justice process. This will account for the individual context; and,
3. further exploration of the novel focus upon the effect of police investigation, involving time and case complexity, upon sentence severity.

Overall, this chapter has presented the findings of this research and translated them into three practical policy applications.

APPENDIX

- APPENDIX A: BLUE-COLLAR CRIME (WINNIPEG POLICE SERVICE)
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- APPENDIX B: WHITE-COLLAR CRIME (ROYAL CANADIAN MOUNTED
POLICE) SAMPLE CHARACTERISTICS
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APPENDIX A:

BLUE-COLLAR CRIME (WINNIPEG POLICE SERVICE) SAMPLE CHARACTERISTICS

Focussing upon police investigation indicators, the blue-collar (Winnipeg Police Service) data set consists of 211 individual cases. The number of files per investigation is consistent at 1. The cases are primarily individual perpetrators at 81.4%, 17.2% dual role perpetrators and 1.4% involved in a triad offense. 97.1% of the offenders are described as the instigator. The blue-collar data deals solely with local cases which are consistently defined as "light" in terms of laying a charge and the complexity of the offender for the crime.

With regard to criminal history, 64.1% of the individuals have a prior criminal record, with 79% having a history of a moderate felony, 10% a minor felony and 11% a minor offense. 46% have an average of one prior conviction with the second most frequent being 5 at 36.2%. 69.3% have no other prior offense information, while 19.1% are on charge, 5.5% are on probation, 2.5% on parole, 2% on probation and a charge, 1% on bail and .5% on bail and a charge.

With reference to judicial decision making, 46.9% of the cases are of a fraudulent nature, including credit card fraud and false pretences, and 53.1% involve theft. 90.5% of the offenses are minor, with 6.7% minor felonies and 2.9% moderate felonies. The attempted economic gain for 48.3% of the

offenses is under \$100, 30.9% are less than \$500 but more than \$100, 11.6% are less than \$1000 but over \$500 and 9.2% are more than \$1000⁸. All blue-collar cases were heard in Provincial court with 99.1% having a business as the victim and none revealing any harm upon an individual victim.

In terms of social economic status, the principal type of offense property is money (29.3%), followed by clothing (18.6%), food (12.8%), personal hygiene (12.2%), hairspray/lysol (8%) and household items (5.3%). Social economic status is available for only 36% of the data set, and of it 100% are in the lower class with 77.9% representative of the lower lower class, 17.6% middle lower and 6% upper lower. In terms of occupation, 64.4% are unemployed, 13.4% other, 10.4% students, 6.9% in sales, 2% managers and .5% professionals. 99.5% of the resources used in the crimes were personal and did not involve an occupational role. 75.5% of the population have no ties to the labour force, 21% work for a private company, 2.5% have their own business and 1% work for the government. Of those with ties to the labour force, 21.1% are workers, 2.5% are petty bourgeois and 2% are managers.

With regard to offender characteristics, 92.7% of individuals are Canadian Citizens, 56.7% are male, and 52.5% are Caucasian, 35.4% Aboriginal, 6.6% other, 3% Asian and 2.5% Black. 30.9% of the offenders are under the age of 25, 17.8%

⁸ And less than \$1200.

are under the age of 30 but over 25, 28.5% under the age of 40 but over 30, 22.3% under the age of 65 but over 40 and .5% are over the age of 65. 53% are single, 15.2% married, 13.1% divorced, 10.1% common-law, 7.6% separated and 1% widowed. With a frequency of 24% missing values, 48.4% have no children, 22.4% have one child, 15.5% have 2 children, 7.5% have 3 children and 6.1% have greater than 3 children. 57.1% have less than a grade 12 education (with 25.2% below a grade 10), 36.2% have a grade 12 education and 6.3% have above a grade 12 level.

In terms of personal characteristics and with a 44.5% missing frequency, 55.6% of the respondents' motive was non-financial, 35% financial and 9.4% due to influence. 5.7% of the respondents are under treatment for physical or mental illness, 10.4% have a known drug/alcohol/gambling dependence and 94% did not reveal remorse for their offense.

APPENDIX B:

WHITE-COLLAR (ROYAL CANADIAN MOUNTED POLICE)
DATA FREQUENCY

Focussing upon the white-collar (Royal Canadian Mounted Police) data and police investigation, a total of 83 individuals were charged. 26.9% have one investigation file, 23.1% have 2 files, 15.4% have 4 files, 10.3% have 8 files and 14.1% have over 10 files. 59.7% have a court brief the length of 1 volume, 27.3% have between 2 and 5 volumes and 13% have over 5 volumes. 53.7% of the cases involve a single charge, 17.2% a dual charge and 29.1% involve three or more people. 81.5% of the cases are local, 11.1% national and 7.4% international. 23% of the investigations involve 10 or less investigation witnesses, 56.7% involve between 11 and 40, 17.6% involve over 40 but less than 100 and 2.7% of the cases involve over 100 investigation witnesses. Of the cases with investigation witnesses 150km or more outside the city of Winnipeg limits, 74.3% have at least one. The length of the investigation lasted one year or less for 10.1% of the cases, between 1 and 2 years for 14.5% of the cases, between 2 and 3 years for 30.5% of the cases, between 3 and 4 years for 27.5% of the cases, and over 4 years for 17.4%. 14.7% of the investigators spent 3 actual months on the case, 30.6% spent over 3 but less than 6 months, 25.4% of the cases spent between 6 and 9 months, 10.6% of the cases spent between 9 months and 1 year and 18.7% spent over 1 year. Of the time

spent on the case, the intensity was heavy for 50.7%, medium for 23.9% and light for 25.4%. In terms of the complexity of laying a charge, it is heavy for 32.1%, medium for 39.7% and light for 28.2%. 80.2% of the offenders have a lead role in the offense, 11.1% an organizing role, 6.2% an instigating role and 2.5% an accomplice role. The complexity of the offender for the crime is light at 50%, medium at 35% and heavy at 15%.

In reference to criminal history, 39% have a prior criminal record with 27.5% having a minor offense, 21.5% a minor felony and 51% a moderate felony. For prior number of convictions, 33% have 1, 8% have 2 and the remainder have 3 and above. With prior offense information, 83.3% have none, 14.1% are on charge, 1.3% are in jail and 1.3% are on parole. 18.1% are charged with Bankruptcy Act, 65% with fraud and 16.9% with theft.

In terms of judicial decision making, for the type of offense charged with, 91.5% are a moderate felony and 8.5% a minor felony. Attempted economic gain between \$1000 and \$10,000 is 36.3%, over \$10000 and less than \$100000 is 32.5%, between \$100000 and \$1000000 is 22.5%, over \$1000000 is 8.7%. 28.8% of the cases are Court of Queens Bench and 71.2% are provincial court. 20.7% are individual victims, 52.4% are against the government and 26.8% against businesses. For the degree of personal harm against the victims, 93.8% have none and 6.2% have personal.

In regard to social economic status, 100% of the cases involve a money related offense. 39.7% are in the lower social economic status, 27.9% in the middle and 32.4% in the upper class. In terms of occupation, 35.8% are professionals, 17.3% in sales, 14.8% labourer, 13.6% manager, 9.9% unemployed, 6.2% farmer and 2.5% other. The resources used in the crime are 70% organizational. The class of worker is 52.6% private company, 29.5% own business, 10.3% no ties to the labour force and 7.7% in the government. With regard to class of occupation, 30.9% are employers, 19.6% workers, 27.2% managers, 2.5% petty bourgeois and 9.9% unknown. For the occupational role used, 45.5% are job facilitated, 27.3% use business identity, 16.9% use none and 10.4% are a combination.

In terms of offender characteristics, 97.5% are Canadian citizens, 92.6% Caucasian, 3.7% Aboriginal, 2.5% Asian and 1.2% other. 84.3% are male and the age distribution is 2.4% under 25, 8.8% 25 to 30, 31.5% 30 - 40, 56.1% 40 - 65 and 1.2% over 65. Marital status is categorized as 62% married, 10.1% divorced, 10.1% common-law, 16.5% single and 1.3% separated.

In reference to personal characteristics, offender motives are 45.8% financial, 20.8% influence, 16.7% other, 12.5% non-financial and 4.2% greed and the level of frequency missing is 71%. Individuals under medical or physical treatment is 5%, 7.5% are drug/alcohol/gambling dependent, and 10% displayed remorse for the offense committed.

APPENDIX C:

BLUE-COLLAR CRIME (WINNIPEG POLICE SERVICE)
FREQUENCY & PERCENT TABLES

AGE

	FREQUENCY	PERCENT
18-25	72	34.8
26-34	58	28.0
35-49	61	29.5
50-65	14	6.7
66+	2	1.0

Frequency Missing = 4

ATTEMPTED ECONOMIC GAIN

	FREQUENCY	PERCENT
0-99	100	48.3
100-499	64	30.9
500-999	23	11.1
1000-9999	20	9.7

Frequency Missing = 4

CANADIAN CITIZEN

	FREQUENCY	PERCENT
NO	15	7.3
YES	191	92.7

Frequency Missing = 5

CLASS/OCCUPATION CATEGORY

	FREQUENCY	PERCENT
NONE	148	74.4
WORKER	42	21.1
PETTY BOURGEOISIE	5	2.5
MANAGER	4	2.0

Frequency Missing = 12

CLASS OF WORKER

	FREQUENCY	PERCENT
NO LABOUR TIES	151	75.5
SELF-EMPLOYED	5	2.5
PRIVATE COMPANY	42	21.0
GOVERNMENT	2	1.0

Frequency Missing = 11

COMPLEXITY IN LAYING A CHARGE

	FREQUENCY	PERCENT
LIGHT	211	100

Frequency Missing = 0

COMPLEXITY OF OFFENDER FOR CRIME

	FREQUENCY	PERCENT
LIGHT	211	100

Frequency Missing = 0

DEGREE OF HARM UPON VICTIM

	FREQUENCY	PERCENT
NONE	210	100

Frequency Missing = 1

DRUG/ALCOHOL DEPENDENCE

	FREQUENCY	PERCENT
NO	189	89.6
YES	22	10.4

Frequency Missing = 0

EXTENT PRIOR RECORD

	FREQUENCY	PERCENT
NONE	73	36.8
MINOR OFFENSE(S)	14	7.1
MINOR FELONY	13	6.6
MODERATE FELONY	98	49.5

Frequency Missing = 13

GENDER

	FREQUENCY	PERCENT
FEMALE	91	43.3
MALE	119	56.7

Frequency Missing = 1

INTENSITY TIME SPENT ON CASE

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

LENGTH INVESTIGATION

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

LENGTH OF COURT BRIEF

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

LEVEL OF EDUCATION

	FREQUENCY	PERCENT
0-6	11	6.7
7-9	30	18.4
10-12	111	68.2
13+	11	6.7

Frequency Missing = 48

MARITAL STATUS

	FREQUENCY	PERCENT
NOT MARRIED	105	53
MARRIED	50	25.3
SEPARATED	43	21.7

Frequency Missing = 13

NUMBER OF FILES

	FREQUENCY	PERCENT
1	211	100

Frequency Missing = 0

NUMBER INVESTIGATION WITNESSES

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

NUMBER INVESTIGATION WITNESSES 150KM OUTSIDE THE CITY

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

NUMBER OF DEPENDENTS

	FREQUENCY	PERCENT
0	78	48.3
1	36	22.4
2	25	15.5
3+	22	13.8

Frequency Missing = 50

NUMBER OF PEOPLE CHARGED

	FREQUENCY	PERCENT
1	170	80.3
2	36	18.2
3	3	1.5

Frequency Missing = 2

OCCUPATION

	FREQUENCY	PERCENT
NO INCOME	153	75.7
WORKER	16	7.9
PETTY BOURGEOIS	1	0.5
MANAGER	5	2.5
OTHER	27	13.4

Frequency Missing = 9

OCCUPATIONAL ROLE USED

	FREQUENCY	PERCENT
NO ROLE	207	99.5
JOB FACILITATED	1	.5

Frequency Missing = 3

OFFENDER MOTIVES

	FREQUENCY	PERCENT
FINANCIAL NEED	41	35.0
INFLUENCED	11	9.4
NON-FINANCIAL	60	51.3
GREED	2	1.7
OTHER	3	2.6

Frequency Missing = 94

OFFENSES CHARGED WITH

	FREQUENCY	PERCENT
THEFT UNDER	111	55.2
FRAUD UNDER	64	31.9
THEFT OVER	1	0.5
FRAUD OVER	25	12.4

Frequency Missing = 10

OTHER OFFENDER PRIOR OFFENSE INFORMATION

	FREQUENCY	PERCENT
NO	138	69.3
CHARGE	41	20.7
PROBATION	15	7.5
JAIL	5	2.5

Frequency Missing = 12

OFFENDER SENTENCE SEVERITY

	FREQUENCY	PERCENT
ACQUITTED	20	9.5
STAY PROCEEDINGS	49	23.3
SUS SENTENCE 1-6	30	14.3
SUS SENTENCE 6-12	79	37.6
PROBATION	31	14.8
INCARCERATION	1	0.5

Frequency Missing = 1

POLICE TYPE

	FREQUENCY	PERCENT
WPS	211	100

Frequency Missing = 0

PRIOR CRIMINAL RECORD

	FREQUENCY	PERCENT
NO	75	35.9
YES	134	64.1

Frequency Missing = 2

PRIOR NUMBER CONVICTIONS

	FREQUENCY	PERCENT
1	76	46.6
2-3	18	11.0
4-5	68	41.7
6+	1	0.6

Frequency Missing = 48

RACE

	FREQUENCY	PERCENT
ABORIGINAL	70	35.4
ASIAN	6	3.0
BLACK	5	2.5
CAUCASIAN	104	52.5
OTHER	13	6.6

Frequency Missing = 13

REMORSE FOR OFFENSE

	FREQUENCY	PERCENT
NO	198	94.3
YES	12	5.7

Frequency Missing = 1

RESOURCES USED IN CRIME

	FREQUENCY	PERCENT
PERSONAL	208	99.5
ORGANIZATIONAL	1	0.5

Frequency Missing = 2

ROLE OF OFFENDER (RCMP)

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

ROLE OF OFFENDER (WPS)

	FREQUENCY	PERCENT
ACCOMPLICE	6	2.9
INSTIGATOR	203	97.1

Frequency Missing = 2

SOCIAL ECONOMIC STATUS

	FREQUENCY	PERCENT
\$0 - \$35,000	136	100

Frequency Missing = 75

SPREAD OF ILLEGALITY

	FREQUENCY	PERCENT
LOCAL	211	100

Frequency Missing = 0

TIME SPENT ON CASE

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 0

TYPE OF COURT

	FREQUENCY	PERCENT
PROVINCIAL	121	100

Frequency Missing = 90

TYPE OF PROPERTY

	FREQUENCY	PERCENT
MONEY	56	31.5
PERSONAL	74	41.5
FOOD	24	13.5
HAIRSPRAY/LYSOL	15	8.4
OTHER	9	5.1

Frequency Missing = 33

TYPE OF VICTIM

	FREQUENCY	PERCENT
BUSINESS	209	99.1
INDIVIDUAL	2	0.9

Frequency Missing = 0

TYPE OFFENSE CHARGED WITH

	FREQUENCY	PERCENT
MINOR OFFENSE	190	90.5
MINOR FELONY	14	6.6
MODERATE FELONY	6	2.9

Frequency Missing = 1

UNDER TREATMENT PHYSICAL/MENTAL HEALTH

	FREQUENCY	PERCENT
NO	199	94.3
YES	12	5.7

Frequency Missing = 0

APPENDIX D:

WHITE-COLLAR CRIME (ROYAL CANADIAN MOUNTED POLICE)
FREQUENCY & PERCENT TABLES

AGE

	FREQUENCY	PERCENT
18-25	2	2.4
26-34	18	22.0
35-49	44	53.7
50-65	17	20.7
66+	1	1.2

Frequency Missing = 1

ATTEMPTED ECONOMIC GAIN

	FREQUENCY	PERCENT
1000-9999	29	36.3
10000-99999	26	32.5
100000-999999	18	22.5
1000000+	7	8.7

Frequency Missing = 3

CANADIAN CITIZEN

	FREQUENCY	PERCENT
NO	2	2.5
YES	79	97.5

Frequency Missing = 2

CLASS/OCCUPATION CATEGORY

	FREQUENCY	PERCENT
NONE	8	9.9
WORKER	24	29.6
PETTY BOURGEOIS	2	2.5
MANAGER	22	27.2
EMPLOYER	25	30.8

Frequency Missing = 2

CLASS OF WORKER

	FREQUENCY	PERCENT
NO LABOUR TIES	8	10.2
SELF-EMPLOYED	23	29.5
PRIVATE COMPANY	41	52.6
GOVERNMENT	6	7.7

Frequency Missing = 5

COMPLEXITY IN LAYING A CHARGE

	FREQUENCY	PERCENT
LIGHT	22	28.2
MEDIUM	31	39.7
HEAVY	25	32.1

Frequency Missing = 5

COMPLEXITY OF OFFENDER FOR CRIME

	FREQUENCY	PERCENT
LIGHT	40	50
MEDIUM	28	35
HEAVY	12	15

Frequency Missing = 3

DEGREE OF HARM UPON VICTIM

	FREQUENCY	PERCENT
NONE	76	93.8
PERSONAL	5	6.2

Frequency Missing = 2

DRUG/ALCOHOL DEPENDENCE

	FREQUENCY	PERCENT
NO	74	92.5
YES	6	7.5

Frequency Missing = 3

EXTENT PRIOR RECORD

	FREQUENCY	PERCENT
NONE	48	59.3
MINOR OFFENSE(S)	9	11.1
MINOR FELONY	7	8.6
MODERATE FELONY	17	21.0

Frequency Missing = 2

GENDER

	FREQUENCY	PERCENT
FEMALE	13	15.7
MALE	70	84.3

Frequency Missing = 0

INTENSITY TIME SPENT ON CASE

	FREQUENCY	PERCENT
LIGHT	17	25.4
MEDIUM	16	23.9
HEAVY	34	50.7

Frequency Missing = 16

LENGTH INVESTIGATION

	FREQUENCY	PERCENT
0-3 MONTHS	1	1.4
4-12	6	8.8
13-24	10	14.5
25-36	21	30.4
37-48	19	27.5
49+	12	17.4

Frequency Missing = 14

LENGTH OF COURT BRIEF

	FREQUENCY	PERCENT
1 VOLUME(S)	46	59.7
2-3	7	9.1
4-9	19	24.7
10+	5	6.5

Frequency Missing = 6

LEVEL OF EDUCATION

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 83

MARITAL STATUS

	FREQUENCY	PERCENT
NOT MARRIED	13	16.5
MARRIED	57	72.2
SEPARATED	9	11.3

Frequency Missing = 4

NUMBER OF FILES

	FREQUENCY	PERCENT
1	21	26.9
2-3	23	29.5
4-9	27	34.6
10+	7	9.0

Frequency Missing = 5

NUMBER INVESTIGATION WITNESSES

	FREQUENCY	PERCENT
1-9	12	16.2
10-19	17	23.0
20-49	32	43.2
50+	13	17.6

Frequency Missing = 9

NUMBER INVESTIGATION WITNESSES 150KM OUTSIDE THE CITY

	FREQUENCY	PERCENT
1-9	34	61.8
10-19	6	10.9
20-49	13	23.7
50+	2	3.6

Frequency Missing = 28

NUMBER OF DEPENDENTS

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 83

NUMBER OF PEOPLE CHARGED

	FREQUENCY	PERCENT
1	44	53.7
2	14	17.1
3	3	3.7
4+	21	25.5

Frequency Missing = 1

OCCUPATION

	FREQUENCY	PERCENT
NO INCOME	8	9.9
WORKER	26	32.1
PETTY BOURGEOIS	5	6.1
MANAGER	40	49.4
OTHER	2	2.5

Frequency Missing = 2

OCCUPATIONAL ROLE USED

	FREQUENCY	PERCENT
NO ROLE	13	16.8
JOB FACILITATED	35	45.5
BUSINESS IDENTITY	21	27.3
JOB & IDENTITY	8	10.4

Frequency Missing = 6

OFFENDER MOTIVES

	FREQUENCY	PERCENT
FINANCIAL NEED	11	45.8
INFLUENCED	5	20.8
NON-FINANCIAL	3	12.5
GREED	1	4.2
OTHER	4	16.7

Frequency Missing = 59

OFFENSES CHARGED WITH

	FREQUENCY	PERCENT
THEFT OVER \$1000	14	17.3
FRAUD OVER \$1000	67	82.7

Frequency Missing = 2

OTHER OFFENDER PRIOR OFFENSE INFORMATION

	FREQUENCY	PERCENT
NO	65	83.3
CHARGE	11	14.1
JAIL	2	2.6

Frequency Missing = 5

OFFENDER SENTENCE SEVERITY

	FREQUENCY	PERCENT
ACQUITTED	3	4.0
STAY PROCEEDINGS	7	9.3
SUS SENTENCE 1-6	24	32.0
SUS SENTENCE 6-12	13	17.3
PROBATION	12	16.0
INCARCER. 1-24	12	16.0
INCARCER. 25-48	4	5.4

Frequency Missing = 8

POLICE TYPE

	FREQUENCY	PERCENT
RCMP	83	100

Frequency Missing = 0

PRIOR CRIMINAL RECORD

	FREQUENCY	PERCENT
NO	50	61
YES	32	39

Frequency Missing = 1

PRIOR NUMBER CONVICTIONS

	FREQUENCY	PERCENT
0	47	64.4
1	12	16.4
2-3	3	4.1
4-5	3	4.1
6+	8	11.0

Frequency Missing = 10

RACE

	FREQUENCY	PERCENT
ABORIGINAL	3	3.7
ASIAN	2	2.5
CAUCASIAN	75	92.6
OTHER	1	1.2

Frequency Missing = 2

REMORSE FOR OFFENSE

	FREQUENCY	PERCENT
NO	72	90
YES	8	10

Frequency Missing = 3

RESOURCES USED IN CRIME

	FREQUENCY	PERCENT
PERSONAL	22	27.5
ORGANIZATIONAL	56	70.0
COMBINATION	2	2.5

Frequency Missing = 3

ROLE OF OFFENDER (RCMP)

	FREQUENCY	PERCENT
ACCOMPLICE	2	2.5
INSTIGATOR	5	6.2
ORGANIZER	9	11.1
LEADER	65	80.2

Frequency Missing = 2

ROLE OF OFFENDER (WPS)

	FREQUENCY	PERCENT
	0	0

Frequency Missing = 211

SOCIAL ECONOMIC STATUS

	FREQUENCY	PERCENT
\$0-35000	24	35.3
\$35,001-100,000	28	41.2
\$100,001+	16	23.5

Frequency Missing = 15

SPREAD OF ILLEGALITY

	FREQUENCY	PERCENT
LOCAL	66	81.5
NATIONAL	9	11.1
INTERNATIONAL	6	7.4

Frequency Missing = 2

TIME SPENT ON CASE

	FREQUENCY	PERCENT
0-3 WEEKS	2	2.7
4-24	32	42.7
25-48	27	36.0
49+	14	18.6

Frequency Missing = 8

TYPE OF COURT

	FREQUENCY	PERCENT
PROVINCIAL	52	71.2
QUEEN'S BENCH	21	28.8

Frequency Missing = 10

TYPE OF PROPERTY

	FREQUENCY	PERCENT
MONEY	83	100

Frequency Missing = 0

TYPE OF VICTIM

	FREQUENCY	PERCENT
BUSINESS	22	26.8
GOVERNMENT	43	52.5
INDIVIDUAL	17	20.7

Frequency Missing = 1

TYPE OFFENSE CHARGED WITH

	FREQUENCY	PERCENT
MINOR FELONY	7	8.5
MODERATE FELONY	75	91.5

Frequency Missing = 1

UNDER TREATMENT PHYSICAL/MENTAL HEALTH

	FREQUENCY	PERCENT
NO	76	95
YES	4	5

Frequency Missing = 3

APPENDIX E:

ROYAL CANADIAN MOUNTED POLICE AND WINNIPEG POLICE SERVICE SURVEY INSTRUMENT

CONTROL VARIABLES

1.	POLICE TYPE (R & W)	
	ROYAL CANADIAN MOUNTED POLICE.....	1
	WINNIPEG POLICE SERVICE.....	2
2.	GENDER (R & W)	
	FEMALE.....	1
	MALE.....	2

INDEPENDENT VARIABLES

1.	POLICE INVESTIGATION	
	A. TIME	
1.	NUMBER OF FILES (R)	
	1.....	1
	2-3.....	2
	4-9.....	3
	10+.....	4
2.	LENGTH OF COURT BRIEF (VOLUMES) (R)	
	1.....	1
	2-3.....	2
	4-9.....	3
	10+.....	4
3.	NUMBER OF PEOPLE CHARGED (R & W)	
	1.....	1
	2.....	2
	3.....	3
	4+.....	4
4.	SPREAD OF ILLEGALITY (R & W)	
	LOCAL.....	1
	NATIONAL.....	2
	INTERNATIONAL.....	3

5.	NUMBER OF INVESTIGATION WITNESSES (R)	
	1-9.....	1
	10-19.....	2
	20-49.....	3
	50+.....	4
6.	NUMBER OF INVESTIGATION WITNESSES 150 KM OUTSIDE CITY (R)	
	0-8.....	1
	9-19.....	2
	20-40.....	3
	40+.....	4
7.	LENGTH OF INVESTIGATION (MONTHS) (R)	
	0-3.....	1
	4-12.....	2
	13-24.....	3
	25-36.....	4
	37-48.....	5
	49+.....	6
8.	TIME SPENT ON CASE (WEEKS)	
	0-3.....	1
	4-24.....	2
	25-48.....	3
	49+.....	4
9.	INTENSITY OF TIME SPENT ON CASE (R)	
	LIGHT.....	1
	MEDIUM.....	2
	HEAVY.....	3
 B. COMPLEXITY		
10.	COMPLEXITY/SOPHISTICATION IN LAYING A CHARGE (R & W)	
	LIGHT.....	1
	MEDIUM.....	2
	HEAVY.....	3
11.	ROLE OF OFFENDER (R)	
	ACCOMPLICE.....	1
	INSTIGATOR.....	2
	ORGANIZER.....	3
	LEADER.....	4
12.	ROLE OF OFFENDER (W)	
	ACCOMPLICE.....	1
	INSTIGATOR.....	2
13.	COMPLEXITY/SOPHISTICATION OF OFFENDER FOR THE CRIME (R & W)	
	LIGHT.....	1
	MEDIUM.....	2
	HEAVY.....	3

2. CRIMINAL HISTORY

14.	PRIOR CRIMINAL RECORD (R & W)	
	NO.....	1
	YES.....	2
15.	EXTENT OF PRIOR RECORD (R & W)	
	NONE.....	1
	MINOR OFFENSE(S).....	2
	MINOR FELONY(S).....	3
	MODERATE FELONY(S).....	4
16.	PRIOR NUMBER OF CONVICTION(S) (R & W)	
	0.....	1
	1.....	2
	2-3.....	3
	4-5.....	4
	6+.....	5
17.	OTHER OFFENDER PRIOR OFFENSE INFORMATION (R & W)	
	NO.....	1
	CHARGE (CHARGE, BAIL, BAIL & CHARGE).....	2
	PROBATION (PROBATION, PROBATION & CHARGE).....	3
	INCARCERATION (PAROLE, INCARCERATED).....	4

3. JUDICIAL DECISION MAKING

A. SERIOUSNESS

18.	OFFENSE(S) CHARGED WITH (R & W)	
	THEFT UNDER \$1000.....	1
	FRAUD UNDER \$1000.....	2
	FRAUD UNDER CREDIT CARD, FRAUD UNDER CREDIT CARD PGOBC, BANKRUPTCY ACT, FALSE PRETENCES, FORGE & UTTER, FORGE & UTTER PGOBC THEFT OVER \$1000.....	3
	THEFT OVER BREACH TRUST, THEFT OVER DEFRAUD CREDITORS, FRAUD OVER \$1000.....	4
	FRAUD OVER CREDIT CARD, FRAUD OVER CREDIT CARD PGOBC, FRAUD OVER FALSE PRETENCES, FRAUD OVER PERSONATION, FRAUD OVER & THEFT OVER, BANKRUPTCY ACT, FALSE PRETENCE, FORGE & UTTER, FORGE & UTTER & PGOBC,DEFRAUD CREDITORS	
19.	TYPE OF OFFENSE CHARGED WITH (R & W)	
	MINOR OFFENSE(S).....	1
	MINOR FELONY(S).....	2
	MODERATE FELONY(S).....	3
20.	ATTEMPTED ECONOMIC GAIN OR SAVINGS (R & W)	
	0-99.....	1
	100-499.....	2
	500-999.....	3
	1000-9999.....	4
	10000-99999.....	5
	100000-999999.....	6
	1000000+.....	7

21.	TYPE OF COURT (R & W)	
	PROVINCIAL.....	1
	COURT OF QUEEN'S BENCH.....	2
 B. VICTIMIZATION		
22.	TYPE OF VICTIM (S) (R & W)	
	PRIVATE.....	1
	BUSINESS.....	2
	GOVERNMENT.....	3
	INDIVIDUAL.....	4
23.	DEGREE OF HARM INFLICTED UPON VICTIM(S) (OTHER THAN MONETARY) (R & W)	
	NONE.....	1
	PERSONAL (MENTAL).....	2
 4. SOCIAL ECONOMIC STATUS		
B. EXTRA-LEGAL		
24.	TYPE OF PROPERTY (R & W)	
	MONEY (CREDIT CARD).....	1
	PERSONAL (TAPE/CD, PERSONAL HYGIENE, COSMETIC, JEWELRY, HOUSEHOLD).....	2
	FOOD.....	3
	HAIRSPRAY/LYSOL FOR CONSUMPTION.....	4
	OTHER.....	5
25.	SOCIAL CLASS/INCOME (R & W)	
	LOWER (\$0-\$35,000).....	1
	MIDDLE CLASS (\$35,001-\$100,000).....	2
	UPPER (\$1000001+.....	3
26.	OCCUPATION (R & W)	
	NO INCOME (STUDENT, UNEMPLOYED, RETIRED).....	1
	WORKER (LABOUR, SALES).....	2
	PETTY BOURGEOIS (SELF, FARMER).....	3
	MANAGER (MANAGER, PROFESSIONAL).....	4
	OTHER.....	5
27.	RESOURCES USED IN THE CRIME (R & W)	
	PERSONAL RESOURCES.....	1
	ORGANIZATIONAL RESOURCES.....	2
	COMBO.....	3
28.	CLASS OF WORKER (R & W)	
	NO LABOUR FORCE TIES (NOT EMPLOYED, ILLEGAL OCCUPATION)....	1
	SELF-EMPLOYED OR OWN OWN BUSINESS.....	2
	EMPLOYEE IN PRIVATE COMPANY.....	3
	GOVERNMENT EMPLOYEE.....	4

29.	CLASS/OCCUPATION CATEGORY (POSITION OF POWER) (R & W)	
	NONE.....	1
	WORKER (NOT OWN MEANS OF PRODUCTION-NO SUBORDINATES).....	2
	PETTY BOURGEOISIE (OWN MEANS OF PRODUCTION-NO SUBORDINATES).....	3
	MANAGER (NOT OWN MEANS OF PRODUCTION-HAS SUBORDINATES)....	4
	EMPLOYER (OWNS MEANS OF PRODUCTION-HAS SUBORDINATES).....	5
5.	OFFENDER CHARACTERISTICS	
30.	BORN CANADIAN CITIZEN (R & W)	
	NO.....	1
	YES.....	2
31.	RACE (R & W)	
	ABORIGINAL/MÉTIS.....	1
	ASIAN.....	2
	BLACK.....	3
	CAUCASIAN.....	4
	OTHER.....	5
32.	AGE (R & W)	
	18-25.....	1
	26-34.....	2
	35-49.....	3
	50-65.....	4
	66+.....	5
33.	MARITAL STATUS (R & W)	
	NOT MARRIED (SINGLE).....	1
	MARRIED (COMMON LAW).....	2
	SEPARATED (WIDOW, DIVORCE).....	3
34.	NUMBER DEPENDENTS (W)	
	0.....	1
	1.....	2
	2.....	3
	3+.....	4
35.	EDUCATION (W)	
	0-6.....	1
	7-9.....	2
	10-12.....	3
	13+.....	4
6.	PERSONAL CHARACTERISTICS	
36.	OFFENDER'S STATED MOTIVE(S) (R & W)	
	FINANCIAL NEED.....	1
	INFLUENCED BY OTHERS (COERCED, FOLLOWING AN ORDER, A FAVOUR).....	2
	NON-FINANCIAL PERSONAL REASONS.....	3
	GREED.....	4
	OTHER.....	5

37.	UNDERGOING TREATMENT FOR PHYSICAL AND/OR MENTAL ILLNESS (R & W)	
	NO.....	1
	YES.....	2
38.	DRUG/ALCOHOL/GAMBLING DEPENDENCE (R & W)	
	NO.....	1
	YES.....	2
39.	REMORSE FOR OFFENSE COMMITTED (R & W)	
	NO.....	1
	YES.....	2

DEPENDENT VARIABLE

1.	OFFENDER SENTENCE SEVERITY (IN MONTHS)	
	ACQUITTED (ABSOLUTE DISCHARGE).....	1
	STAY OF PROCEEDINGS (RESTITUTION PAID).....	2
	SUSPENDED SENTENCE &/OR PROBATION W/O SUPERVISION 1-12 MONTHS.....	3
	SUSPENDED SENTENCE & PROBATION/RESTITUTION/COMMUNITY/ COUNSELLING 1-12 MONTHS, SUSPENDED SENTENCE &/OR PROBATION W/O SUPERVISION 13-36 MONTHS, SUSPENDED SENTENCE & PROBATION/RESTITUTION/COMMUNITY/ COUNSELLING 13-36 MONTHS, SUSPENDED SENTENCE & PROBATION/RESTITUTION/COMMUNITY/COUNSELLING 37-48 MONTHS FINE AND/OR RESTITUTION.....	4
	PROBATION OR PROBATION PLUS FINE AND/OR RESTITUTION 1-12 MONTHS AND/OR CONDITIONAL DISCHARGE 1 - 12 MONTHS AND/OR COMMUNITY SERVICE WORK 1 - 12 MONTHS, PROBATION OR PROBATION PLUS FINE AND/OR RESTITUTION 13-36 MONTHS AND/OR COMMUNITY SERVICE WORK TIME IN CUSTODY.....	5
	INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 1-6 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 1-6 MONTHS PLUS FINE AND/OR RESTITUTION OR PROBATION, INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 7-12 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 7-12 MONTHS PLUS FINE AND/OR RESTITUTION INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 13-24 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 13-24 MONTHS PLUS FINE AND/OR RESTITUTION.....	6
	INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 25-36 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 25-36 MONTHS PLUS FINE AND/OR RESTITUTION INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 37-48 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 37-48 MONTHS PLUS FINE AND/OR RESTITUTION.....	7
	INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 49-60 MONTHS OR INCARCERATED IN THE CUSTODY OF ATTORNEY GENERAL 49-60 MONTHS PLUS FINE AND/OR RESTITUTION, INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 61-84 MONTHS OR INCARCERATED IN CUSTODY OF ATTORNEY GENERAL 61-84 MONTHS PLUS FINE AND/OR RESTITUTION	

APPENDIX F:
SUPPLEMENTARY RESEARCH DATA ANALYSIS

To gain a greater understanding of the data, independent from the aim of this inquiry, the following data was analyzed.

1. Type of Property

The harshest sentence is for hairspray/lysol consumption, followed by money, household, personal and other. There is a significant mean difference of .6 between hairspray/lysol consumption and the next harshest, money, and there is a less pronounced difference for the remainder of the variables.

TYPE OF PROPERTY	MEAN SENTENCE
MONEY (CREDIT CARDS)	3.63
PERSONAL	3.08
FOOD	3.45
HAIRSPRAY/LYSOL FOR CONSUMPTION	4.20
OTHER	3.00
STATISTICAL SIGNIFICANCE	.010

2. Race

A non-caucasian individual will receive a harsher sentence than a Caucasian individual. If an individual's race is Aboriginal, s/he will receive the harshest sentence. This is closely followed by other, Caucasian, Asian, and then Black. This is of prime importance when it is considered that the majority of white-collar offenders are Caucasian and

determined in this inquiry to receive the least harsh sentences.

RACE	MEAN SENTENCE
ABORIGINAL	3.68
ASIAN	3.25
BLACK	2.80
CAUCASIAN	3.40
OTHER	3.50
<i>STATISTICAL SIGNIFICANCE</i>	<i>.046</i>

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