

FEMALE OFFENDERS AND THE CRIMINAL JUSTICE  
SYSTEM: EXAMINING THE PATTERNS OF  
DIFFERENTIAL TREATMENT OF  
FEMALE OFFENDERS IN  
OKLAHOMA

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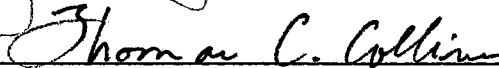
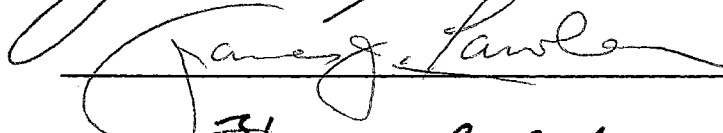
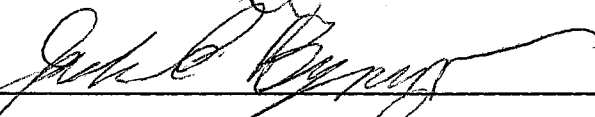
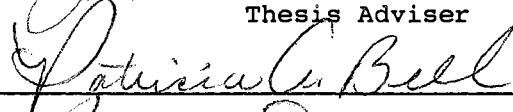
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## CHAPTER I

### INTRODUCTION

#### Background Information

This study examines the patterns of differential treatment of female offenders by the Oklahoma Criminal Justice system. The participation of females in crime and the manner in which they are treated by the criminal justice system is a topic that has provoked controversy and concerns in recent years. The central issue, which has also generated some controversy, is whether or not female offenders are treated differentially by the criminal justice system. The speculations have been on whether or not females receive more lenient or harsher treatment from the criminal justice system. With the recent increasing participation of females in criminal activities (U. S. Department of Justice, 1992, 1991; Heidensohn, 1986; Mann, 1984; Adler, 1975, 1981; Adler and Simon, 1979; and Simon, 1975), the number of females in prison has grown at a faster rate than that of males (U. S. Department of Justice, 1992, 1991).

Although the increasing participation of females in criminal activities has been cited as one of the reasons for higher incarceration rates among female offenders, changes in the reactions by the criminal justice agents toward female criminality have been well supported by various studies as a possible cause (Steffensmeier,

1980 and others). Steffensmeier argues that the relative increase in female rates are small and involve crimes that do not reflect the participation of females in the labor force. Rather, he suggests that the increase might be explained by the changes in the reactions to female crimes by criminal justice personnel. Smith and Visher (in Moyer, 1985) have also suggested that the official reaction to female crime may be changing. Supporting Smith and Visher was Weis (1976) who reports that the opposing view of the contemporary female criminality asserted that the emergence of the new female criminal is more of a "social invention" than an empirical reality. These studies suggest that perhaps the increasing rate of female incarceration may be due more to social and nonlegal factors such as gender, perceptions, values and attitudinal bias, than to legal factors such as seriousness of the offense, prior record or frequency of involvement in criminal activities.

These changes in the reactions of the criminal justice agents toward female criminality are assumed by many to result in differential treatment not only between males and females, but also among the female offenders. As pointed out by Weisheit and Mahan (1988), Wikler (1980), and Temin (1973), female offenders may be victims of differential treatment. Wikler (1980) concludes that female offenders are in fact treated more harshly than males by the criminal justice system, especially in the courts where a disparity in treatment against female offenders seems to be more evidenced than in any other branch of the system. According to Weisheit and Mahan,

the New York Task Force on Women in Courts reports that:

Gender bias against women litigants, attorneys and court employees is still a pervasive problem with grave consequences. Women are often denied equal justice, equal treatment and equal opportunity (1988, 51).

The Task Force Report concluded that gender-based bias has been documented at every stage in the criminal justice system. Also, discriminatory treatment against female offenders has been found in the indeterminate sentencing statutes enacted by some states. Female offenders are given longer sentences than would a male for the same offense. These indeterminate sentences are given on the grounds that women have more potential for rehabilitation in a longer sentence.

There is also evidence of differential treatment among female offenders. Female offenders who display traditional female behavior such as passive and non-assertive behaviors are treated preferentially by the system. On the other hand, females who display non-traditional female behaviors are treated more harshly and punitively. Baunach (1984) also assumes that such differential treatment leveled on the female offenders has two effects. One effect results in the high incarceration of female offenders. The other is that female offenders are more likely to perceive their treatment as unfair and unjust. As Baunach (1984) indicates, female offenders expressed that they were bitter and angry at "the system" because they had pled guilty or because they felt that they had been convicted unfairly.

#### Background of the Study

During the 1980s, Oklahoma, like many other states in

the nation, has experienced an increased number of females in their inmate population. The 1988 Reports from the Oklahoma Department of Corrections, and the United States Department of Justice, Bureau of Justice Statistics Special Report on Women in Prison show Oklahoma leading the nation in its incarceration rate of females. According to the Report, nationally, the percentage of prisoners who were females in 1988 was 5.6 percent, whereas females comprise 8.7 percent of the inmate population for that year in Oklahoma. More recent sources from the Oklahoma Department of Corrections however indicate a decline in the percent of total female inmate population in the state since 1992. Sources from the Oklahoma State Department of Corrections indicate that as of February 9th, 1993, female inmates comprised 8.5% of the state's inmate population which represents a decrease of .2 percent from the 1991 figure. This latest figure is however still higher than the national average which remains at 5.6 percent (U. S. Department of Justice, Federal Prisons Journal: Special Focus on Female Offender, 1992, 33).

A 1989 Report from the Oklahoma Department of Corrections reported that the actual number of females in Oklahoma prisons has quadrupled since 1980, and female receptions as a percent of total receptions have also risen. In terms of numbers, the U.S. Department of Justice Report (1991) shows that Oklahoma ranks ninth in the nation in the number of females in prison. The Report also shows that Oklahoma is among the ten states with the highest incarceration rates of females at year's end, 1990. Oklahoma is also the only state in the top ten that is not also among the top ten in the total

prison population. According to the Report, among the states with at least 500 female inmates, Massachusetts has the next highest percentage of female prisoners at seven percent.

In response to that situation, Don Mecoy (1991) states: "State Tops Nation in Percentage of Female Inmates". The paper went on to state that "in at least one area, Oklahoma leads the nation in granting women treatment on a par with men". For the fourth straight year, reported Mecoy, Oklahoma in 1990 led all states in the percentage of women among its prison population. He indicated that state corrections officials attribute the relatively high number of women in Oklahoma prisons at least partly to the state's heritage as a "no-nonsense, frontier land in the middle of the Bible Belt". The Oklahoma Director of Corrections, Mr. Gary Maynard, in response stated, "the people in this state don't have too much sympathy for people who break the law" (Mecoy, 1991, 1). Also, speaking on the increasing willingness of judges to incarcerate females, Director Maynard was quoted as saying: "courts used to look at it as if they were sentencing a mother: now they look at it as if they are sentencing a criminal" (Corrections Today, Dec. 1990, 162). Also, the Regional Director of Corrections for Northeastern Oklahoma, Mr. Dave Miller, responded that his "gut reaction" is that courts administer a consistent standard of justice to men and women alike. "If a woman in this state commits a felony, she probably stands as good a chance of being incarcerated as her male counterpart" (Mecoy, 1991, 1). If the above expressions from the corrections officials reflect the general official views of the state criminal justice

personnel, one can then assume that (1) Oklahoma is a no nonsense state whose law enforcement policies and decision-making processes are based on the values and attitudes of the criminal justice personnel in the Bible Belt, and (2) the judicial system administers consistent and equal justice to people irrespective of gender. One would also assume that having Bible Belt values and attitudes would mean having opinions, views and perceptions that reflect traditional views on issues including traditional views of females. With what seems to be an admission of traditional attitudinal influence in their administration of justice, based on their Bible Belt beliefs, values, morals, perceptions, et cetera, one wonders how could female offenders be treated fairly and equally. This is in consideration to the increasing participation of females in criminal activities. If criminal justice officials share these traditional views, biases, stereotypes, and perceptions, isn't it fair to assume that any venture by females into criminal activities will be followed by a severe punishment, as their behavior will be seen as deviating from their traditional expected roles? It has already been suggested by researchers that females who violate traditional expected gender role are likely to receive harsher punishment from the criminal justice system.

#### Statement of the Problem

The subject of this study is the increase in the female inmate population in Oklahoma. As previously indicated, both the United States Department of Justice and the Oklahoma Department of



Corrections have reported dramatic increases in the number of female incarcerations in Oklahoma. In the acknowledgment of these increases, the Oklahoma Department of Corrections reported that the actual number of women in Oklahoma prisons has quadrupled since 1980, and that female receptions as a percent of the total receptions have also risen. Furthermore, a 1991 report from the Oklahoma Department of Corrections claims that Oklahoma has the highest percentage of female inmates in the nation. That means that nationally, the percentage of prisoners who are female is 5.6 percent, whereas females comprise 8.7 percent of the inmate population in Oklahoma. No other state in the nation has a female inmate population this high. This also means that Oklahoma is sending a higher percent of its female offenders to prison than any other state in the nation.

#### Purpose of the Study

In view of the above, this study intends to examine the patterns of arrests and incarcerations between male and female offenders by the criminal justice system in Oklahoma for the years 1985, 1987, 1989 and 1991. By examining these patterns, the author wishes to establish whether or not differential treatment of male and female offenders may be occurring in Oklahoma's Criminal Justice System. If and where differential treatment is occurring, this study may provide insight into the unequal treatment of females by the criminal justice system in Oklahoma and into some of the reasons underlying that unequal treatment.

Spohn, Welch and Gruhl (1985) have pointed out that some early studies have reached somewhat contradictory conclusions regarding how female offenders are treated by the criminal justice system. However, other researchers (Ghali and Chesney-Lind, 1986; Steffensmeier, 1980; Wikler, 1980) have reported that women offenders are in fact victims of differential treatment. While differential treatment between male and female offenders has been found in the three agencies of the criminal justice system, it is believed by many to be more prevalent in the court system than in any other branch of the criminal justice system.

#### Research Objectives

With reference to the above, this study will focus on answering the following research objectives:

1. To determine if the percentage of female arrests has increased over the periods 1985, 1987, 1989, 1991 for selected offenses. The author assumes that a dramatic increase in female arrests may lead to high incarcerations. Arrest data from the Oklahoma State Bureau of Investigation (OSBI) will be examined to determine if the number of female arrests have increased within the time frame in question.
2. To determine if the percentage of female prison receptions has increased over the periods 1985, 1987, 1989 and 1991 for selected offenses. Reception data from the Oklahoma Department of Corrections will be analyzed.
3. To determine if the percentage of arrests relate to the percentage of inmates for selected offenses by the period in

question. Data from both Oklahoma Department of Corrections and Oklahoma State Bureau of Investigation will be examined and compared for possible relationships.

4. To determine if females get longer or shorter sentences than males for selected offenses. Sentencing data from the Oklahoma Department of Corrections will be examined to determine if female offenders get longer, equal, or shorter sentences than males for each offense irrespective of other possible relevant factors.

5. To determine if female first offenders, second offenders and third offenders receive more severe sentences than male first, second and third offenders on some selected offenses. Sentence and Reception data from Oklahoma Department of Corrections will be examined and analyzed to establish how repeat offenses affect the sentence length of male and female offenders.

6. To determine if there is a difference in sentencing patterns between white and nonwhite female offenders. Sentencing data from the Oklahoma Department of Corrections will be analyzed and means for the sentence length for white female offenders as well as nonwhite female offenders will be sought and compared.

7. To determine if there is a difference in sentencing patterns for females by marital status for certain selected offenses. Means for sentence length for both married and single female offenders will be analyzed from the sentence length data.

8. To establish if judges' attitudes toward feminism are associated with perceptions of female offenders as aggressive perpetrators of crimes they commit. Questionnaire will be administered to all judges in the state of Oklahoma.

Accomplishment of these research objectives should shed some light on several things. First, it should help to establish whether or not female offenders are treated harshly or leniently by the criminal justice system in Oklahoma, particularly in the courts. Second, it should help to determine whether or not that treatment contributes to more female incarcerations. Thirdly, it will provide a base or a reference for future studies in this area.

## CHAPTER II

### REVIEW OF LITERATURE

#### Introduction

Differential treatment, based on race, sex, class, education, age, geographical region, or physical appearance, has been accorded individuals and entire groups by the criminal justice system. The type of treatment accorded these individuals and groups most often is based on the degree of equality attached to them by the criminal justice system. According to Moulds (1978, 416), "equality as a matter of practice, however, has fallen far short of the ideal of much of the criminal justice system". The two groups that seem to have been the most studied as victims of potential and actual discriminatory treatment by the criminal justice have been racial minorities and the poor. As Moulds points out, dramatic inequalities related to race and poverty have been especially troubling to the American public in recent years, and a substantial amount of research has been conducted as a result of these concerns.

In contrast, however, Moulds points out that an examination of literature indicates that other areas of unequal treatment have been given comparatively little attention by most scholars. This pattern is particularly evident in the case of females. Moulds contends that this is ironic in view of the fact that females constitute over 50 percent of the population of the United States.

Female Offenders and the Criminal  
Justice System

The differential treatment of females by the criminal justice system has been well established. With the recent increasing participation of female in criminal activities (U. S. Department of Justice, 1991, 1992; Heidensohn, 1986; Mann, 1984; Adler, 1981, 1975; Adler and Simon, 1979; and Simon, 1975), and the manner in which they are treated, the issue of female criminality has not only generated a lot of attention, but also some controversy (Krohn, Curry, and Nelson-Kilger, 1983). This attention being given to female criminality as well as treatment accorded them by the criminal justice system has not come easily. Echoing this view, Bowker states:

There has been great interest in the rise of the new female criminal. Most of the discussion of this phenomenon, appropriately or not, has focused on the dramatic increases in the number of adult women arrested for criminal misconduct. Comparatively, less interest is expressed by the public at large over the manner in which adult women come to the attention of the agents of law enforcement and what happens to them once they enter the criminal justice system (1978, 197).

Moulds' (1978, 416) survey of indexes of major textbooks dealing with criminology and the criminal justice system reveals that the terms "women", "girls", and "females", appear only sporadically. He indicates that, until recently, when women have been considered in these text books, the pattern has been to devote a few pages, or at most a single chapter, to their unique characteristics and experiences in the criminal justice system. Prior to 1970 there was a very limited number of major works dealing specifically with women

and the criminal justice system. Since 1970 the attention given to this topic has been on the rise. A few major works and numerous journal articles have reversed the earlier trend of treating women in the criminal justice system as a tangential topic. This view is also shared by Weisheit and Mahan (1988), who contend that most of our early explanations for crime and description of criminals have been on studies on male offenders. They indicate that newspaper accounts, often based on the observations of police officers, judges, or prison officials, have told of a new breed of female criminal offenders whose penchant for violence and aggression rivaled that of males. According to Weisheit and Mahan (1988), only two books published by Adler and Simon on female criminality were available in 1975 which set the stage for much of the debate on female criminality for the next decade. Thus, the works of Adler and Simon brought the problem of female criminality to the attention of criminologists, who have come to realize that an understanding of female criminality may broaden our understanding of crime in general (Weisheit and Mahan, 1988). Moulds (1978) concludes that recent analysis has focused on women as a primary subject of interest, and much use is being made of the ideology of feminism in explaining women's involvement in and treatment by the criminal justice system.

In highlighting one of the several reasons offered for the lack of attention earlier given to female criminality and the manner in which they have been treated by the criminal justice system, Bowker

writes:

The question of the treatment of adult women who are arrested, tried and sentenced has been ignored primarily because of the small number of women involved in these processes. Whether or not this was ever a valid reason for neglecting this aspect of the official response to criminality, it becomes increasingly less convincing as larger numbers of women are swept into the criminal justice system (1978, 197).

For 1982, adult women constituted 15 percent of those arrested, 6.5 percent of the jail population, and were only 4.4 percent of the general prison population in the U. S. (Ghali and Chesney-Lind, 1986, 164). Bowker (1978) also points out that in 1975 adult women comprised about 14.9 percent of those arrested, 5.9 percent of those held in the nation's jails, 11 percent of those convicted, and only 3.4 percent of those incarcerated in state and federal prisons. Adler (1975) has also pointed out that female criminality was not seen as a threat to the social order since most of their crimes involved minor and nonthreatening offenses. Therefore all efforts were geared at protecting them.

#### Recent Increased Female Contact with the System

According to the 1991 United States Bureau of Justice, Bureau of Justice Statistics Report Special Report on Women in Prison, the number of women arrested and incarcerated have steadily continued to increase. As this report shows, the number of women in prison across the nation has grown at a faster rate than that of males. In a year-to-year comparison, the report shows the percentage of women now in prison to be the highest since the first annual collection of prison statistics in 1926. The report



also shows that the rate of growth for female inmates exceeded that for males in each year since 1981. From 1980 to 1989, the Bureau of Statistics Report (1991, 1) reported that while the male inmate population increased by 112 percent, the female population increased by 202 percent. The report also points out that at the year-end of 1989, 549 men per 100,000 in the resident population and 31 women per 100,000 women were serving a prison sentence of more than one year. The same report shows that the number of women under the jurisdiction of State and Federal prison authorities at year-end 1989 reached a record 40,556. Although the female inmate population had increased by more than 27,000 since 1980, an increase of over 200 percent, the report concluded that female inmates still comprise a relatively small 5.7 percent of the prison population at year-end 1989.

Similarly, the 1992 version of the Justice Special Report on Women in Prison shows a continuous increase in female contacts with the criminal justice system. According to this report, female arrest statistics reflect an increasing trend. The report shows that while the number of female arrests increased by 33.6 percent from 1983 to 1989, the number of male arrests increased by 22.2 percent. As a result, women accounted for 18.1 percent of all adult arrests in 1989, up from 16.6 percent in 1983. Between 1983 and 1989, the Bureau of Justice Statistics Report (1992, 2) reports that the number of inmates in local jails increased by 76.9 percent. It also shows that during the same time, the rate of growth for female inmates was 138.0 percent, nearly double that for male inmates, 72.7 percent. By 1989, women represented 9.5 percent of all jail inmates, up from 7.1 percent in 1983.

## Issues of Differential Treatment

by the System

With these sudden increases in the number of arrests as well as the number of incarcerations of female offenders, especially the manner in which the incarceration is being affected, numerous issues, questions and concerns have been raised. Issues of concern have not only come from female offenders who often perceive their treatment as unfair and unjust (Baunach, 1984), but also from scholars (Steffensmeier, 1980; Miller, 1976; Temin and others, 1973) who have found evidence of differential treatment against female offenders by the criminal justice system. The pertinent question which is yet to be resolved is, why is the percentage number of female incarcerations growing faster and higher than those of males? Are females committing more offenses than before, or are they committing offenses more than males? Are females being arrested more than males, or are the arrested females being sentenced faster and longer than their male counterparts? Are female offenders being reacted to differently by the criminal justice system? Several researchers have tried to answer these questions, and although findings have been inconclusive, there have been several speculations and discussions. As indicated by Adler (1975), Simon (1975) and Steffensmeier (1980), much of the discussions reflect the view that the changing roles of women in American society are associated with an increase in their crime rates relative to those of males. However, other studies point out that there has been much disagreement on the nature of changes in female crime and reasons for

those changes. According to Krohn, Curry and Nelson-Kilger (1983, 418), the controversy over the nature of changes in female crime and reasons for these changes has centered around two issues: (1) the reasons for the increase in the illegal behavior of females, and (2) the effect of the reaction of law enforcement officials to female crime. A central figure focusing on the former issue has been Freda Adler (1975). She suggests that we are experiencing--and will continue to experience--a masculinization of female crime; She also suggests that because women's role in society is becoming less differentiated from men's, we should expect their behavior--including illegal behavior--to become more like that of men. However, this position has been undermined by examination of both official data (Simon, 1975; Price, 1977; Steffensmeier, 1978, 1980) and self-report data (Norland and Shover, 1977; Klein and Kress, 1979; Datesman and Scarpiti, 1980a). Both indicate that the decreasing disparity between male and female crime is largely due to an increase in female offenders' participation in offenses that they have always engaged in (such as petty larceny, fraud, and alcohol and drug use). In contrast to the above position, Adler (1975) has suggested that the increase in female crime is due to increased economic opportunities and access to traditionally male occupations causing only an increase in property crimes among women. Krohn et al. (1985) point out that this hypothesis has subsequently been questioned by Steffensmeier (1980) who argued that the relative increases in female crime rates are small, involve crimes that do not reflect the participation of females in the labor force, and might be

explained better by changes in the reaction to female crime by law enforcement officials. In furtherance of this position,

Steffensmeier states:

In both popular and scientific writings, the view is often expressed that women offenders may be experiencing a negative residual effect of changes in sex roles and women's movement; Although they treated women leniently in the past, criminal justice personnel may be prompted by the movements's rhetoric and activities to view female offenders with less paternalism. In effect, 'if it's equality these women want, we'll see that they get it'. If police, prosecutors, and judges begin to view women in less paternalistic terms, one outcome for women offenders may be greater likelihood of arrest, more incarceration before and after trial, and longer sentences upon conviction (1980, 345).

The above view has also been supported by Mann (1984). Mann suggests that more women are not necessarily being arrested because of a rise in female criminality, but that there is a widening of the law enforcement net since the system itself has improved or expanded. The pertinent question, according to Mann, is whether women are actually committing more offenses or are they merely being apprehended, charged, and convicted more frequently? From the foregoing, therefore, the author may make the assumption that the increasing number of female arrests and incarcerations may be a direct result of differential application of justice to male and female by the criminal justice system. As pointed out above, a sizeable number of studies support the view that the increasing rate of female incarceration may not necessarily indicate a mass involvement of females in criminal activities as suggested by some studies. To some extent, women are engaging in criminal activities in large numbers. There is, however, evidence supporting the view

that the increased incarceration of female offenders may not all be attributed to their participation in criminal activities, but rather may largely be attributed to the system's perception of their behavior as a violation of expected female behavior. These perceptions are reflected in both the changes and the reactions of the criminal justice agents toward female criminality. This is also perceived as a manifestation of traditional attitudes of the criminal justice personnel toward female offenders.

The criminal justice system dominated by personnel with those kinds of attitudes perceive these female behaviors as far discrepant from their traditionally, socially acceptable role (Baunach, 1985). The women offenders, considered evil for deviating from the expected behavior, are punished severely for their behavior. According to the evil women thesis, Steffensmeier and Kramer report:

The fallen woman is punished for straying from the behavior prescribed for females. So, judges and other justice agents are more likely to throw the book at the female, because they believe there is greater discrepancy between her behavior and the behavior expected of a woman than there is between the behavior of a male defendant and the behavior expected of a man (1982, 290).

As Feinman (1979) suggests, sex roles steeped in religious and moral values also have a decisive impact on the manner in which nonconforming women have been defined and treated. The deification of the spiritually pure wife/mother brought demands for laws to punish the nonconforming women as unnatural, as a symbol of sin. Thus in the first half of the nineteenth century, those female offenders who had "fallen" from their naturally pure state were viewed as more depraved than their male counterparts; hence they were

dealt with more harshly while incarcerated. Simon (1975) contends also that women may be punished more harshly than men for violating their prescribed role expectations. Women's behaviors are therefore no longer seen as an embarrassment but as a threat (Adler, 1975). These attitudes consequently lead to a differential application of justice which result in differential treatment against women.

### The Impact of Sex on the Criminal Justice Processing

While the issue of differential application of justice to men and women has received some attention in recent years, empirical studies have reached somewhat contradictory conclusions (Spohn, Welch, and Gruhl, 1985). As Ghali and Cheseny-Lind (1986) indicate, there continues to be confusion about the role played by gender in the criminal justice processing. Wilbanks (1986) points out that there is considerable controversy about whether female offenders receive preferential treatment, punitive or equal treatment at the criminal justice decision points. Perhaps the best summary of literature on this area is the following statement by Nagel and Hagan (in Wilbanks):

The relation of gender to case processing decisions in the criminal justice system varies from stage to stage. Although the pertinent literature is plagued by methodological and interpretive problems, several tentative conclusions can be offered. Women are more likely than men, other things being equal, to be released on recognition; however, when bail is set, the amount of bail does not appear to affect the defendant's gender. There is no clear evidence that the defendant's gender systematically affects prosecution, plea negotiation, or conviction decisions. In sentencing, however, women appear to receive systematic leniency except when they are convicted of high-severity offenses (1986, 518).

This confusion has led to the articulation of two competing assumptions concerning the effect of sex on the criminal justice outcomes. First, it is assumed that women defendants are indeed treated preferentially. Second, it is assumed that women defendants are subject of discrimination by the system. Analysis by Spohn et al. (1985, 178-179) of some of the contradictory conclusions include the following findings: (1) women have been found to be more likely than men to be released on their own recognizance prior to trial (Nagel, 1983; Nagel and Hagan, 1983), (2) women have been found to more likely have their case dismissed prior to trial (Pope, 1976; Simon and Sharma, 1979), (3) women have been found to be less likely than men to be convicted (Nagel and Weitzman, 1971; Sangert and Farrell, 1977), (4) women have been found to be sentenced more severely (Engle, 1971; Pope, 1976), and (5), women to be incarcerated more (Baab and Furgeson, 1967; Nagel and Weitzman, 1971; Simon, 1975). Other studies have concluded that females are treated no differently than males, particularly with respect to the decision to prosecute, to plea bargain or to convict (Spohn et al., 1985, 179).

Despite these contradictory findings, Spohn et al. (1985) indicate that the bulk of the conclusions point toward more lenient treatment of female defendants especially at the sentencing stage in the criminal process. Other researchers such as Pollak (1950), Simon (1975), Moulds (1978), Krohn et al. (1983), and others have reached similar conclusions. Anderson (in Ghali and Cheseny-Lind, 1986) indicates that the view that women are recipients of preferential or lenient treatment if apprehended is the oldest and probably the most

predominant view on this issue. This position was perhaps best articulated by Pollak (1950):

Men hate to accuse women and thus, indirectly, to send them to their punishment, police officers dislike to arrest them, district attorneys to prosecute them, judges and juries to find them guilty and so on (1978, 197).

One dominant example of studies reaching these conclusions that women are treated preferentially by the criminal justice system is the oft-cited study (cited by almost all studies) by Stuart Nagel and Lenore Weitzman. Using nationwide data gathered in 1962 on 11,258 cases, Nagel and Weitzman examined the following outcomes: release on bail, time spent in jail, case dismissal or acquittal, suspended sentence or probation, and sentence of less than one year's incarceration. Their data showed that women are less likely than men to be incarcerated before trial and after, and are more likely to be acquitted or have their cases dismissed than their male counterparts. The authors concluded that there was preferential treatment of women in 1962 and that court personnel displayed paternalistic attitudes (in Steffensmeier, 1980, 346).

Steffensmeier (1980) and others agree that the Nagel and Weitzman study is important because: it used nationwide data and shows a large sample of cases. Steffensmeier however contends that its value is diminished because it examined treatment of offenders for only two broad categories of crimes, grand larceny and felonious assault; and because it does not simultaneously control for other important variables, such as prior record. He contends further that it is generally assumed that women commit fewer and less serious crimes than the men do. Thus, the judicial tendency interpreted by



Nagel and Weitzman as preferential treatment may be in large part attributable to less serious nature of female's criminal career.

More serious criticisms have been leveled on this line of research for its methodological limitations along with the ambiguity in their findings by more recent researchers. As argued by many researchers, most of these early conclusions were derived out of statistics which showed that adult women comprised only a smaller proportion of those arrested and incarcerated. This is in contrast to the Bureau of Justice Report (1992) which shows that women accounted for 18.1 percent of all adult arrested in 1989 and also represented 9.5 percent of the jail inmates. Also as pointed out by Steffensmeier:

this line of reasoning overlooks the crucial point that most female arrests for serious crimes are for petty larceny, usually shoplifting, for which offense neither male nor female defendants are apt to be sent to prison (1980, 345-346).

Other criticisms leveled against these studies include Steffensmeier's (1980, 347) suggestions that these studies are characterized by the following shortcomings: (1) failure to use multivariate analysis of criminal justice decisions in which important variables other than sex have been controlled; (2) failure to examine outcomes of a wide range of offenders/offenses, particularly of defendants charged with relatively "non serious" or minor crimes who, in fact constitute the large majority or women (and men) actually processed through the criminal justice system; and (3) neglect of important decision-making points in the justice system, most notably decisions involving the police and decisions

occurring at the lower court stages; (4) most studies fail to control simultaneously for important variables in their analysis of sex differences in criminal justice outcomes. Even studies which do simultaneously control the variables include only a small number of variables in their multivariate analysis; and (5) the analysis is confined to a small number of offenses, and relatively serious offenses.

Also Wilbanks (1986, 517-518) points out five shortcomings which have clouded the conclusions of these earlier research: (1) that prior studies are based on only one or two decision points in a particular jurisdiction and thus no study exists that examines the multiple decision points from arrest to imprisonment; (2) that the literature largely has examined all offenses as a whole or a single offense to assess the impact of sex of defendant and, thus, differential impact by offense has not been examined in a single jurisdiction; (3) no prior study has attempted to "connect" the male/female gap at arrest to the much larger gap at imprisonment so that the source of increase across the system in the gap might be identified; (4) no prior study has examined the interaction of race and sex at various decision points to determine if the overall pattern of impact for sex of defendants holds when race is controlled.

#### The Influence of Race

Although sex is a very important variable affecting the outcome in criminal justice processing, race may have just

as much influence as sex. According to Lewis (in Weisheit and Mahan, 1988), black females are more likely than white females to be involved in crime. Also Spohn et al. (1985) have found sentences of black women are more comparable to sentences of white men than white women, and that at least some of this disparity is due to racial discrimination. Spohn et al. also argue that the race of the defendant might be one variable confounding the result of those studies, and that failure to examine black and white defendants separately could mask distinctions in the treatment of male and female defendant.

#### The Effects of Controlling

The inability of earlier studies to control for certain variables while looking at the impact of sex in the criminal justice processes has been identified as the reasons for reaching the contradictory conclusions that they did. A 1961 study by Green in which controlling method was applied established that when such controls were introduced, much of the advantage enjoyed by women tended to disappear. His work, based on a study of case processing in Philadelphia, found that when the effects of type of offense (felony or misdemeanor) and prior record were removed, virtually identical percentages of men and women received penitentiary sentences (Ghali and Cheseny-Lind, 1986, 164). A 1983 study by Curran in Dade County, Florida, in which certain variables were controlled found that women were not necessarily advantaged by gender. She used multiple regression to examine judicial processing

at four decision points (negotiation, prosecution, conviction, and sentencing). She also examined the effects of non-legal variables (race, age, and occupational status) and legal variables (number of prior arrests, offense seriousness, and total number of counts) for three time periods. In general, she reports that all of these variables were not too successful at predicting sentencing. Nor was gender important at the negotiation, prosecution or conviction decision points. At sentencing however, she reports that gender did play a favorable role for women (in Ghali and Chesney-Lind, 1986, 164-165).

#### Supporting Studies

In view of the methodological limitations plaguing earlier studies their conclusions of leniency toward women may have been overstated. More recent and rigorous studies have found even less support for the notion that women are treated chivalrously or leniently. Chiricos, Jackson and Waldo in 1982 studied the disposition of 2,419 felony probation cases in Florida and found that women were no more likely to be offered an option which would allow them to avoid formal legal adjudication as guilty. Controlling for prior conviction, Ekstrand and Eckert also examined murder cases tried in Atlanta, Georgia, during the mid-1970's and found no difference in the sentences given male and female offenders.

Simon and Sharma (1979) using 1974 PROMIS data for Washington D.C., controlled for a variety of legal and non-legal variables. Using multiple regression, they examined criminal justice processing

at the prosecutorial and court decision-making points for a considerable array of offense categories (including both misdemeanor and felony arrests in 15 crime categories). They found, among other things that at trial gender did not play a role either in findings of guilty or in the decision to incarcerate (in Ghali and Chesney-Lind, 1986, 165). Figueira-McDonough (1982) also using PROMIS data, examined both charge reduction and sentence reduction (plea bargaining) and found women disadvantaged at both of these stages of the criminal justice process. According to their study, men pled guilty to a lesser charge nearly twice as often as women, largely because bargaining appears to be reserved to crimes with low female representation (e.g., more serious crimes). With reference to sentencing, men, but not women, who pled guilty received more lenient sentences than did their counterparts who pled innocent or pled guilty to lesser charge. Still other researchers (Nagel, Cardascia, and Ross, 1982; Kruttschnitt, 1982; Kruttschnitt and Green, 1984) have found evidence to suggest that females charged with "manly" crimes, particularly if they cannot provide other evidence of their "respectability" (such as marriage), may be sanctioned more harshly than their female counterparts charged with traditional female crimes (in Ghali and Chesney-lind, 1986, 165).

Finally, the 1986 massive study of the criminal justice system by Ghali and Chesney-Lind reached the following conclusions: From the data studied, it appears that gender influences the outcome of some but not all of the stages of the criminal justice system. Moreover, the effect of gender on the outcome is not consistent in

direction so that one cannot speak of discrimination against or leniency for female defendants. However, at the initial stage of the criminal justice system, after accounting for the individual's age, employment and marital status, race, the type of offense and prior criminal history, arrested females are more likely than arrested males to be prosecuted. Arrested males are more likely to be released pending further investigation, or to be released as the victims decline to prosecute.

At the District Court level which generally handles second and third degree larceny, little evidence of preferential treatment of female defendants was found. The authors argue that this is important in view of the fact that those charged with larceny were significantly more likely to be female. Females, according to these authors, were more likely to enter a guilty plea than their male counterparts. Although, this is not a judicial decision, the authors contend that its impact can hardly be termed preferential.

At the Circuit Court, the authors also found that the gender of the defendant played no role in determining the outcome of the arraignment and plea stage. Gender also was not a factor in trial outcome (guilty or innocent). However, gender does appear to influence the type of sentence. These findings, according to Ghali and Chesney-Lind suggest that gender may, indeed, play a role at some stages in the criminal justice processing but that the results are not consistent in direction. They suggest that in examining the earlier stages of the criminal justice processing, there appears to be a disadvantage associated with being a female, while later stages more evenhanded treatment is apparent.

Having somewhat established from the above empirical findings that female offenders can, and in fact do, get unfavorable and differential treatment based on sex from criminal justice system, the next section discusses how differential treatment is affected. It will focus on how the practices of each branch of the system (police, courts and corrections) culminate in affecting this differential treatment against female offenders. As suggested by Simon (1975), Schur (1983), and Weisheit and Mahan (1988), the practices of the police, and the court, as well as corrections have helped to "produce" the increasing trend of female criminality as well as incarceration.

#### Police

As a front line representative of the criminal justice system, police officials initiate the first contact between the criminal justice system and the offender. Police Officials are the first officials of the system with whom most citizens have contact. It is the arrest they make of a suspect that begins the criminal justice process. When a police officer is in contact with a suspect, the officer is faced with a decision to arrest or not to arrest. The decision to arrest or not arrest may be influenced by a whole range of factors including: legal variables such as seriousness of the offense, prior record, et cetera; and non-legal variables such as race, age, social class, education, religion and gender.

According to Moyer (1985), since the 1960's there has been a vast increase on scientific research on police officers. Mann (1984)

states that the available though somewhat scanty literature on the application of the law by law enforcement personnel in the treatment and processing of female offenders is divided. He points out that while some authors believe that police officers are more stringent toward females, others view police as lenient. Proponents of the later position argue that policemen tend to be paternalistic toward adult female offenders because of deeply situated traditional ways they hold that women are passive, dependent persons. Thus, those who hold this latter view tend to be less suspicious, less cautious, and more lenient with women, which makes it less likely they will arrest them (Mann, 1984, 129).

However, many feel that the more lenient attitudes of the past are changing. Simon (1975), in her conversation with the police, sums up this changing attitude this way "if it's equality these women want, we'll see that they get it". Many believe that the rapidly declining inclination for leniency toward female offenders is due to the hardening of police attitude with an accompanying proclivity to arrest. Mann points out that both the chivalry factor and the hardening attitudes not only affect police discretion but are also influential in the decision-making in other points of the system, where in some instances the treatment is more punitive than that afforded male offenders. Female juveniles have suffered more discriminatory treatment from the police than adult female offenders. Due to police discretionary powers, police have tended to refer more girls for further formal processing than the boys. As Mann (1984, 126) points out, the status offenses of girls are presumed to



represent some form of sexual misconduct that contradicts the mores of the community and challenges the moral fiber of our society. Thus, the justification for selective application of the law rests on the protective attitude adopted by the police, especially male officers, in what is generally called "chivalry factor".

#### Police Discretionary Powers

As Bowker (1978) indicates, studies of police behavior in arrest situations have most often focused on issues of brutality or discretion in the decision to take a suspect into custody. While the issue of brutality appears not to be a serious concern as far as police-female offenders contacts are concerned, the issues of discretion and harassment are areas where serious bias against female offenders does exist. Bowker indicates that there is evidence that police officers' "discretionary enforcement", employed in an attempt to meet the public's demand for law and order with limited enforcement resources, could substantially affect the number of women arrested for criminal misconduct. The two important aspects of enforcement of the law which provide the most interesting perspective on the effect of sex on the arrest decision are drug laws and prostitution laws.

#### Females, Drugs and Police

Recently, arrests of women for this offense have been climbing rapidly. In 1960, drug offenses accounted for less than 1 percent of all female arrests. In 1975, women arrested for drug offenses

accounted for 5.9 percent of all arrests (Bowker, 1978, 203). In the same path, the 1992 U. S. Department of Justice Report shows that women in jail were more involved in illegal drugs than were the men, and that a third of the female inmates were in jail for a drug charge compared to about a fourth of the male inmates (U. S. Department of Justice, 1992). The question that arises is: are more women actually engaging in drug crimes or are they being targeted more due to the hardening police attitudes toward females? Bowker (1978) reports a study of police drug enforcement in Chicago by DeFleurn in which she noted that "women who cried, claimed to have been led astray by men or expressed concern about the fate of their children" were often released, whereas young women who were "aggressive and hostile" were arrested and processed. She also noted that according to the police, young women were increasingly likely to behave in nonstereotypic ways. Clearly, she states that this might go a long way toward explaining the dramatic increase in the number of arrested women for drug offense.

These studies indicate that minor changes in female mobility or demeanor (rather than drug use per se) could result in dramatic increase in the number of women arrested for drug offenses. But, perhaps more important, this studies indicate that the police might be involved in punishing women who violate their sex-role expectations rather than those who violate the law. In essence, women who conform to the female role which requires them to eschew responsibility and plead incompetence escape punishment despite their criminal behavior. These women, it appears, are the beneficiaries of

chivalry. Women who refuse to play this role, on the other hand, are arrested (Bowker, 1978, 203).

#### Female, Prostitution, and Police

The police role in the enforcement of female sex-role expectations is, however, not limited to the drug use. Bowker indicates that it is clearest when viewing police interaction with women they consider prostitutes. In general, an overview of police interactions with women reveals that, contrary to the chivalry hypothesis, police officers routinely violate the civil rights of women they suspect of prostitution. Prostitution, according to Weisheit and Mahan (1988) is a type of crime in which the bias of the criminal process obviously works to the disadvantage of females. Women continue to be singled out in an offense where the sex ratio is equal. Two main areas of differential treatment of female prostitutes has been identified: gender-based statutes which discriminate against women, and differential enforcement of the law which leads to only females being arrested. Differential enforcement of the law leads also to strip-searching and harassment. Strip-searching, Mann (1984) states, is probably the most degrading, humiliating, and abusive practice perpetrated by police officers upon suspected female offenders. Mann contends that this disgraceful and despicable practice is believed to take place throughout the country. This harassment is a highly significant reminder to women that paternalism accrues only to women who conform to a sex role which requires their obedience to men, their passivity, and their

acceptance for their status as the sexual property of only one man (Bowker, 1978). The harassment arrest is commonly found in the enforcement of prostitution laws. Attempts to discourage the practice of prostitution through the use of criminal law enforcement are as timeless as the activity itself. Clearly though, agents of law enforcement have not elected to arrest both parties engaged in the activity. Whenever police have attempted to arrest patrons the public outcry has been sufficient to stop the practice. So despite the fact that every year over 100,000 women are arrested for prostitution, the comparable figure is only one-tenth this amount for men. Yet, according to Bowker (1978), Kinsey early study reveals that 70 percent of all men have been to a prostitute at least once. It is then obvious that the law only punishes women who are engaged in prostitution. Bowker concludes that this legal hypocrisy is possible because the women who are engaged in the activity have so little power.

#### Courts

There is as much evidence of gender bias in the court system as in any other branch of the criminal justice system. The history of the judicial treatment of women parallels the history of the status of women in American economic and social life. Beginning with the courts early treatment of convicted witches, American criminal courts have records that display extreme of gender bias (Weisheit and Mahan, 1988, 51). In 1986, the New York Task Force on

Women in courts stated:

gender bias against women litigants, attorneys, and court employees is still a pervasive problem with grave consequences. Women are often denied equal justice, equal treatment, and equal opportunity (Weisheit and Mahan, 1988, 51).

Sex-based bias (Wikler, 1980) has been documented at every stage in the judicial process, but that does not mean that U. S. courts are consistently and uniformly biased against women. Ghali and Chesney-Lind (1986) point out that sometimes men are treated more harshly in court; in other cases women receive discriminatory treatment.

Atkins and Hoggett point out that since 1970, there have been radical changes in the laws affecting the separate spheres of men and women. But that when women have challenged their discriminatory treatment in court, the results have been inconsistent as well as inconclusive. Even when women win suits for differential treatment in one court, the decision is seldom binding in other courts. Sometimes court decisions in favor of women have been so narrowly interpreted that they have not led to any significant gains in enforcement of equal treatment for women, Atkins and Hoggett (in Weisheit and Mahan 1988, 51). Temin (1973) indicates that other courts wins for women have been undone by contradictory legislations which promote sex as a special category.

The eradication and elimination of gender-based stereotypes, myths and biases in the courts is an important priority in our society. Wikler (1980) posits that during the past decade, the movement for women's rights has brought almost every American social

institution and profession under careful scrutiny for sex-discriminatory practices and policies. As a result of this external pressure, most institutions have been forced to undergo critical self evaluation on the sexism embedded in the structural features of their institution and manifest in the attitudes and behavior of individuals who participate in them. While the legal apparatus of this country has also come under attack, and the charge of "sexist justice" directed at every level of the courts, Wilker argues, however, that the judicial--the institution which determines the effectiveness of many of the efforts to eliminate sex discrimination in other institutions--has so far come under less scrutiny than the others.

#### Judicial Attitudes

There is evidence that gender-biased stereotypes, biases and myths embedded in the law are also embedded in the attitudes, values and beliefs of some of those who serve as judges. The judicial virtues of objectivity, reflection, impartiality and critical analysis according to Wikler has served judges well with respect to other sensitive social issues. As New York University Law Professors John Johnston and Charles Knapp (in Walker) point out:

Judges have largely freed themselves from patterns of thought that can be stigmatized as 'racist' - at least their opinions in that area exhibit a conscious attempt to free themselves from habits of stereotypical thought with regard to discrimination based on color (1980, 203).

Many believe that the story is however different with sex discrimination. On their study of judicial perspectives and biases

reported in cases of sex discrimination, Johnston and Knapp

concluded:

Sexism--the making of unjustified (or at least unsupported) assumptions about individual capabilities, interests, goals and social roles solely on the basis of sex differences--is easily discernible in contemporary judicial opinions as racism ever was.

According to Mann (1984), previous studies suggest that at sentencing extra legal factors such as the personal history of the judge, personality, personal morals and convictions, and the social traits and personal characteristics of the defendants are as influential in the decision-making process as legal factors such as seriousness of the offense and prior record. To that effect, Mann writes:

It is the judge's habits of thought that produce that opinion, nothing less, finally, than 'his entire life history'. But the basis for his judgment and the law it creates may forever lie concealed--because His Honor is not required to publish the reasons for his ruling. At trial court level he rarely bothers to set forth his thinking. Similarly, the upper courts and even the Supreme Court often rule without any explanation at all (1984, 160).

Summarizing the findings of the attitudinal survey of Alabama judges, Crites (in Wikler, 1980, 203) states that the data reveal strong judicial attachment to traditional notions of the "female personality" (more emotional, sympathetic and artistically inclined than men and less aggressive, less able to reason logically and poorer leaders than men) and familial roles (woman as wife and mother; man as decision-maker).

## Sentencing

### Introduction

Sentencing stage is a very crucial step in the processing of an offender through the criminal justice system. This is the stage where the sentencing judge may use discretion and chooses from several modes of punishment. In some cases this discretionary power is preempted by the dictates of the state legislature. As believed by many, both instances bear evidence of discrimination based on the offender's sex. Women are sentenced both more severely and less severely than men for the same offenses (Armstrong, 1977). Armstrong points out also that some states have special sentencing provisions, enacted at the turn of the century to "protect" females, under which the length of a woman's sentence is determined not by the judge but by the correctional authorities within the limits set by statute. The result, according to Armstrong, is denial of equal protection for women; under these statutes, female offenders often serve longer sentences than male offenders convicted of the same criminal conduct (Armstrong, 1977, 105).

Much of the research which has looked into the judicial treatment of male and female offenders has suggested that female offenders are treated leniently at different levels of judicial processes. However, as pointed out on numerous occasions above, such conclusions are old and have been severely criticized for methodological flaws (Wilbanks, 1986; Spohn et al., 1983; and Steffensmeier, 1980). Armstrong points out also that some states



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#### New Studies

During the mid and late 1970s, Wikler (1980) points out that new studies which corrected the methodological errors in the earlier work revealed a much more complex response of the courts to female criminality. Also, there appeared to be a renewed interest in the review of state statutes and laws which had permitted indeterminate sentencing for females. For now, indeterminate sentencing emanates from state statutes which allow judges to sentence women offenders longer than men who committed the same offense. This is done on the pretence that women fare better in longer rehabilitation than men.

### Some Empirical Evidence

In the American Bar Foundation data examined by Nagel and Weitzman, it was found that women were less likely than men to have a jury trial, an important safeguard for innocent defendants. To this finding, Mann (1984, 162) states:

In fact, this difference is even more detrimental to women since both juries and judges tend to be partial to women criminal defendants, and 'juries are less likely to convict than judges'; but more importantly, juries may be 'especially sympathetic to women relative to men in more serious crimes and also in less manly crimes'.

In another study conducted by Rottman and Simon which examined the pretrial release of men and women accused of theft and deceptive practice, the authors found no "evidence of paternalistic treatment is evident. If anything, some support is found for the view that judges treated women defendants more harshly (in Bowker, 1978, 214)". Also, Bernstein and Associates concluded from their study that there exists a strong possibility that among women defendants a kind of sex discrimination exists. They posit that those women engaging in personal crimes are being punished more harshly than their counterparts who committed property offense because the former represent a violation of their sex role as well as the law. Another study conducted in California in 1974 found that proportionately, more women were sent to prison for sex violations. Chesney-Lind (in Wikler, 1980) has concluded from her thorough examination of literature on the criminal justice system that the courts appear to be less lenient toward women than early studies seemed to indicate, and there appears to be discrimination against women offenders and favoritism toward others.

Finally, as suggested by Mann (1984), Wikler (1980), and Bowker (1978), what seems to be emerging from these studies is that far from treating women leniently the courts have been engaging in a more complex response to female criminality. As indicated by Wikler, from diverse sources and research perspectives a common picture is formed:

Some women, particularly those who engage in traditional female offenses, may enjoy benefits before the courts - particularly if they can establish themselves as 'women' by fulfilling other traditional roles (e.g., wife and mother). But other women whose criminal activity is 'unfeminine' (e.g., violent) may be treated more harshly, particularly if they cannot provide other evidence of conformity to the standards of womenhood--through marriage or economic dependence on a man (Wikler, 1980, 205).

#### Indeterminate Sentencing

Indeterminate sentencing, or what Armstrong calls "protective" statutes are statutes which are in effect in many states. These statutes, in the words of Armstrong (1977), reflect the belief that something in the very nature of being a woman justifies her being incarcerated for a longer period than a man would be for the same offense. According to Armstrong and others, between 1869 and 1915, ten states (Indiana, Iowa, Maine, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin) enacted legislation that created separate facilities for convicted women and established the use of the indeterminate for them. The logic behind this legislation was the legislators' belief that women have psychological characteristics which make longer periods of incarceration necessary. This was done even though no case in court has shown that women take longer to be rehabilitated than men do.

After 1915, three other states (Alabama, Arkansas and California) enacted sentence statutes applicable only to women and requiring indeterminate sentences. These statutes, according to Armstrong, and others usually result in sentences more severe for women than for men guilty of the same offense.

As indicated by Armstrong, there is an interim period during which the male defendant is either under consideration for parole or out on parole, whereas the female defendant remains "protected" in prison, where she is denied a great many of fundamental rights. For an instance, Iowa law allows women to be confined up to five years for a misdemeanor, but limits the imprisonment of male misdemeanants to one year. In Maine, women between the ages of 17 and 40 can be sentenced to reformatories for up to three years even if the statutory maximum for the offense is less. Bowker reports that also in Maine, as late as 1972, the sentence for intoxication for men was two years while for women it was three years. Temin (1973) reports that the state of Maryland permits judges to sentence women convicted of crimes punishable by three months imprisonment to the state women's reformatory for an indeterminate period not to exceed the maximum term of imprisonment provided by law. Men are subject to such sentences only between the age of 16 and 25. Men over the age of 25 who are sentenced to the penitentiary receive a term with both minimum and maximum limits. Also, Arkansas originally permitted women misdemeanants to be sentenced to confinement in the women's penitentiary, whereas only male felons could be so confined (Temin, 1973).

In no state was this indeterminate sentencing more severe and perhaps more popular than Pennsylvania. According to Temin, Pennsylvania created the state Industrial Home for Women by the Act of July 25, 1913, known as "Muncy Act". The sentencing provision of this Act, contends Temin, shows an excellent example of the type of statute being discussed here. It required that:

All women over the age sixteen years who had been convicted of an offense punishable by more than one year imprisonment be given a general sentence to Muncy. If the offense was punishable by a term of three years or less, they could be confined for three years. If the crime called for a longer term of three years, then the maximum punishment prescribed by law for the offense was the maximum sentence. The judge possessed neither the discretion to impose a shorter maximum sentence than the maximum provided by the law nor the power to fix a minimum sentence at which the woman would be eligible for parole (Temin, 1973, 359).

By contrast, however, the same state statute for sentencing male offenders at a penitentiary permits the judges in his discretion to impose a shorter maximum sentence than the maximum prescribed by the law. In addition, the judge is required to set a minimum sentence which can be no longer than one-half of the maximum sentence actually imposed. Where the statute prescribes "simple imprisonment", the judge may impose a flat sentence (stating the maximum term only), but may not exceed the maximum term provided by the law for the offense (Temin, 1973).

#### Some Discriminatory Court Cases

These discriminatory state statutes have been challenged as unconstitutional and a violation of equal right protection to the constitution. As has been pointed out, an examination of these cases

demonstrates both the importance of such challenges and the difficulty in establishing their constitutionality. The following are a few examples of discriminatory court cases.

Popiel (1980) reports that in a 1919 case brought before the Supreme Court of Kansas by a woman defendant, the Supreme Court ruled that the Act under which the defendant was given discriminatory sentence was constitutional. The Court concluded that:

the purpose of the Act was 'to ameliorate the condition of woman who have been convicted of an offense punishable by imprisonment' (Popiel, 1980, 87).

In *Platt v. Commonwealth*, the Supreme Court of Massachusetts held that an indeterminate sentence of up to two years for fornication, a crime which carried a maximum sentence of three months or 30 dollars, was legal. The Court concluded among others that the purpose of the statute was to provide the requisite time for rehabilitation and as such was legal (Popiel, 1980, 87). In *re Bradley*, the Supreme Court of Ohio upheld the indeterminate sentence of a woman who had originally been given a determinate sentence and a fine (Popiel, 1980, 88). Finally, the case of *Commonwealth v. Daniel* was a popular one. On May 3, 1966, Jane Daniel was convicted of a simple robbery - an offense carrying a maximum penalty of ten years under Pennsylvania law. The trial judge sentenced her to serve one to four years in County Prison. Thirty-one days later her sentence was vacated on the grounds that it was illegal and she was given the required ten-year sentence to Muncy. From all indications, the opinion of the trial judge made it clear that there were no other reasons for the change in sentence (Temin, 1973, 363). This was the result of the state's

Muncy Act, which required that women receive the maximum legal penalty if convicted of a crime punishable by more than three years and that the sentence be served in a state penitentiary (Bowker, 1978, 211).

Finally, critics who view the criminal justice system as discriminatory against women defendants base their arguments primarily on evidence that female criminal defendants are: (1) the main victims of indeterminate sentencing with the result that longer sentences are imposed upon them; (2) more likely to be sent to more restrictive institutions such as penitentiaries than men guilty of the same crimes, who are confined in jails; or (3) incarcerated for lesser offenses than those committed by men - for example prostitution, where "today there are women in jail who are virtually serving life sentence in small 'bits' for prostitution offenses" (Mann, 1984, 163-4).

## Corrections

### Introduction

Corrections is the last branch of the criminal justice system whose main function is keeping offenders already incarcerated. Corrections are also charged with the responsibility of administering various services and rehabilitation programs to the inmates. This section will not focus on all issues in corrections, such as overview patterns, characteristics et cetera. Rather, like the previous two sections, it will specifically focus on issues and patterns where correctional practices--whether in their rendition of these services

and programs and others--have been viewed as differential treatment, and thus discriminatory against female offenders.

The differential treatment of female offenders by the correctional system has not been as pervasive as the court or the police. Due to the nature of their job, which is primarily keeping the already incarcerated offenders, they may not have contributed to the incarceration of these offenders as much as other branches of the system. By the time the offenders reach the correctional system, they have undergone other treatments which resulted in their incarceration.

However, the correctional system is not without any contribution in some form of differential treatment. There are well documented areas of some practices where disparity of treatment between men and women offenders have been found. These include: (1) absence of research in the way women are treated in the correctional system, (2) sexual stereotyping as consequences of deviation, and (3) provision of inferior services and programs.

#### Absence of Research

While the research studies on men's prisons began in 1940, the sociological research studies of women's prisons did not occur until the mid-1960s. These studies, according to Moyer (1985) and Mann (1984), dealt with a variety of social relationships among the inmates as well as inmate behavior. Mann summarizes it this way:

The voluminous literature on incarcerated females, especially imprisoned women, is in distinct contrast to the lack of systematic information about females' progression through other points in the criminal justice system. Despite the fact that corrections is written



about more than any other topic concerning female offenders, the content of the literature is overwhelmingly concerned with dramatic case studies or 'war stories' of female inmates told to a third party, autobiographies of prisoners either before or after release, histories of development of female prisons, and the like (Mann, 1984, 177).

Mann also goes on to say that extraordinary interest has also been devoted to the social networks or "family" groups established by female institutions, such as homosexual patterns, et cetera. With the exception of few empirical studies and government reports, Mann points out that problems and programs of incarcerated females have not received much attention.

Of course, the two usual explanations often offered for this lack of research include: (1) that female offenders only comprise a smaller proportion of inmate population, and (2) that female offenders are involved in crimes not considered as threatening to the social fiber of the society. Of course, this later changed as females began to be involved in those crimes considered "manly" crimes, and females became more visible in the correctional system.

### Sexual Stereotypes

The way female offenders are treated in the correctional system is believed by many to result from stereotyping view of women offenders by the correctional personnel. As Feinman (1979) indicates, three main facts stand out throughout history of women in jail and prison. First, the treatment of incarcerated women reflects the sex role stereotypes which the society has relegated to women. Second, although women have played a major role in improving the

conditions of incarceration, they have perpetuated those role stereotypes. Third, sex role stereotypes have significantly affected the ex-offenders' opportunity to succeed in the community after release. Feinman suggests that this stereotype view of female, which is steeped in religious and moral values, has had a decisive impact on the manner in which nonconforming women have been defined and treated. There are accounts of other despicable injustices and physical abuse meted out to female offenders. Having been removed from the public view, Feinman reports that women offenders were crowded together into small, unsanitary, poorly ventilated quarters in male institutions such as in Auburn and Sing Sing where they were subjected to the demands of the male guards. Under this condition also, women offenders were flogged, sometimes impregnated, and often died from abuse. This condition led C. Smith, a Chaplain at Auburn Prison, to state that "to be a woman in prison was worse than death" (Feinman, 1979, 88).

#### Provision of Inferior Services and Programs

The correctional system has been known for providing fewer and unequal programs to female offenders. This is one aspect of correctional practices where disparity in treatment between male and female offenders has consistently been documented to exist. Mann (1984, 190) illustrates the situation as follows:

Observers concerned with the limited number of programs for the incarcerated adult female offender and the specialized problem she faces while incarcerated illustrate their frustrations with the correctional system by

dramatizing the appalling lack of interest in women prisoners.

Such inattention to the plight of the female offender in jail and prisons, according to Mann, results in a shortage, or a total lack of funds designated for her care and growth.

Women definitely are a minority of the prisoners, comprising in 1987 only 5 percent of prisoners (Hess et al., 1992), only three to four percent of those incarcerated in the state prisons in the United States and about six percent of those in jails and federal prisons according to Wheeler, Sargent and Ryan (in Moyer, 1985). These researchers also report that because of their relatively small numbers, women have received fewer, inferior and less meaningful programs and services. Another reason may be the evidence as discussed above, or what Bowker and CONTACT (in Moyer, 1985) called "sex-role stereotyping" operating in the types of programs and services offered to many women in prisons.

#### Origin of Attitudes

The criminal justice system is manned by people who, like other human beings in other institutions, have attitudes, opinions, perceptions, their own moral values, biases and prejudices, stereotypes and are influenced by things in the process of carrying out their functions. It has been pointed out in several places in this paper how some system's personnel, especially police and judges, are being influenced by their values, morals and perceptions in their decision-making process. Having analyzed the practices of each branch of the system, and how these practices result in many

instances of differential treatment against female offenders, the next section will discuss the origin of the attitudes held by the system's personnel which cause them to act in the manner which perpetuate sex discrimination against women. These attitudes are derived from several factors including: (1) perception/conception of women in the general public, (2) image of deviant women, (3) the making of the criminal codes/criminal laws which traditionally have discriminated against women offenders both in the definition and in the sentencing process, (4) domination of criminal justice system with personnel with traditional attitudes, and (5) chivalry and paternalism.

Perception/Conception of Women  
in Society

It has been argued that the way women are perceived by the society in general reflects the way they are treated by the societal social institutions, including the criminal justice system. Women are perceived as having low status, members of minority, powerless, and playing subservient role to men. Roles are differentiated, and women are supposed to carry out certain roles. Also, women are expected to behave in a certain way. This perception is thus largely manifested into the institutional policy making. The personnel of these institutions are therefore trained and socialized in some cases, to administer their services differentially between men and women.

The criminal justice system responds to women who deviate from their expected behavior as "a 'spoiled identity' - a failure to

adhere to cultural standards of proper feminine behavior" Stone (in Moyer, 1985). Also, criminal justice system responds leniently to women who, though deviated, exhibited proper feminine behavior upon contact with the system's staff.

#### Images of Deviant Women

The way women who violate the social norms are portrayed especially in the media may be a factor in the way they are treated in the system. From all indications, the images presented by the media of female offenders are different from that of male offenders. As Heidensohn (1985) points out, women involved in crimes, especially serious crimes like murder, seem to provide the media with some most compelling images of their crime and deviance. Think of the earlier thoughts on women and witchcraft. Heidensohn indicates that the witch thought is one very powerful image of the deviant woman which was used in 'control waves' of witch-hunting in various periods of history. Concerning the roles, perceptions of women and their expected behavior as discussed above, women are seen as a source of downfall of a man. Larner (in Heidensohn, 1985, 92) points out that "women are feared as a source of disorder in patriarchal society." She suggests that this fear was based on the sinful/corrupt view of womanhood as the source of evil and the fall of man, and also because of the powerful mysteries of female sexuality and reproductive powers.

In addition to this, the criminological literature is filled with other negative images of deviant woman. Such negative terms as

"depraved", "failure", "spoiled identity", "evil", et cetera, characterize the images portrayed of deviant women in the literature. Although times have changed, and perhaps, while the realities of life for deviant and conforming women may have changed, perceptions of deviant women still hold among the criminal justice system personnel.

#### The Making of Criminal Codes/Law

Historically, state and federal criminal codes for adults and juveniles have discriminated against females both in the definitions of crime and delinquency and in the sentencing process. As pointed out by Feinman (1980) and Romeroy (in Moyer, 1985), stereotype concerning females, so obvious in criminal codes, reflect traditional attitudes toward females and their roles in society that date back to Greek and Roman Pagan mythology and Judeo-Christian theology. Females, according to Feinman were stereotyped either as "madonna", life-producing mothers who have to be protected or prevented from falling off their pedestals, or as "whores", temptresses who use their sexuality to destroy men and therefore have to be punished and restored to true womanhood (in Moyer, 1985, 42).

In pretence of doing this for the good of females as well as society, codes were established which specified expected female behavior as well as punishment for nonconforming females. Kanowitz (in Moyer, 1985) posits that men who wrote and interpreted these codes believed, as did the Illinois Supreme Court in Bradwell cases of 1869, that "God designed the sex to occupy different spheres of

action, and that it belonged to men to make, apply and execute the laws. These beliefs, Feinman argued, are evident in the laws and courts' decisions concerning females. For instance, in *Muller v. Oregon* in 1908, the U. S. Supreme Court ruled constitutional the protective labor legislation for females. Basing his decisions on traditional values that a women's maternal role and sexual cycle made her dependent on men, Justice Brewer stated: "that women's physical structure and performance of maternal functions place her at disadvantage in the struggle for subsistence is obvious". Kanowitz also reports that in 1966, the Mississippi Supreme Court upheld the state law excluding women from the jury duty on the grounds that:

the legislator has the right to exclude women so that they may continue as mothers, wives, and their homemaking, also to protect them (in many areas they are still upon a pedestal) from the filths, obscenity and noxious atmosphere that so often pervades during a jury trial (in Moyer, 1985, 42-43).

Feinman contends that whether to protect virtuous females or to punish female offenders, laws and court decisions had a common basis, the traditional perception of dual nature of females and their belief that they had to be protected and/punished for their own good. This, she argued, became particularly apparent in the criminal justice codes wherein double standard of justice based on a double standard of sexual morality existed resulting in harsher treatment for females in the criminal justice system (in Moyer, 1985, 43).

#### Chivalry and Paternalism

Chivalry and paternalism are two dominant concepts in

criminological literature used to denote the processing of female offenders in the criminal justice system.

### Chivalry

As Moulds (1980) points out, the explanation generally offered for the treatment of female in the criminal justice system is that it is the result of the practice of chivalry. While earlier studies, as indicated in several discussions above, have concluded that chivalry resulted in preferential treatment of female offenders, more recent studies have reached conclusions that chivalry actually has led to punitive treatment of female offenders. For as Bernstein and Cardascia (in Weisheit and Mahan, 1988) indicate, chivalry only "applies to those women who are perceived as acting in accordance with sex role stereotypes for behavior."

Chivalry is a concept which emerged in Europe during the middle ages. It described an institution of service rendered by crusading orders to the feudal lords, to the divine sovereign, and to womankind. "Ladies" were special beneficiaries of the practice of chivalry as knights were sworn to protect female weakness (Moulds, 1980, 417). Chivalry expresses itself in the madonna-whore duality. Implicit in this syndrome is woman's subservience to men, who assumed the role of protector of good and punisher of bad women (Feinman, 1980). In this tradition, the criminal justice system, according to Moyer (1985), has tried to shield women in order to help the "whores" become "madonnas" and to ensure that the madonnas do not fall from grace. And of course, those who fall are punished severely by the system.



### Paternalism

Paternalism is a far more complex concept than chivalry, and as Moulds indicates, its practice is far more destructive in terms psychological, social and political implications. According to Moulds, this concept derived from a Latin-English Kinship term, suggesting a type of behavior by a superior toward an inferior resembling that of a parent to child. Moulds adds that this paternalistic structure has established power relationship between men and women which is most evident in the traditional patriarchal family system.

As can be seen from the previous discussions, the paternalistic attitudes of the criminal justice system personnel has shifted from the one that favored women, as concluded by earlier studies. As speculated by Adler, Simon and others that as the positions of females in society change to the one that nears equality to males, paternalistic attitudes of the system will tighten up and thus respond to females harshly and punitively. To this respect Steffensmeier (1980) states:

It has become commonplace for analysts to point out that, although women defendants were treated more leniently in the past, if the current trend in relations between the sexes continue, this preferential treatment can be expected to change.

Laura Crites (in Steffensmeier, 1980, 353-4) suggests that the following reasons can lead to that change: (1) chivalrous attitudes of male judges toward protecting the 'weaker sex' will decrease as females continue to demand equality, not protection. Increased participation of women in all aspects of life will diminish the view

of them as frail and passive and result in respect for women as equals, (2) equality of treatment may also be prompted by changes in the nature and extent of women's crime. In particular, the increased number of women before the criminal court may cause judges to see female crime as real rather than marginal problem, and (3) an increase in female judges may lead to less preferential treatment. It is suggested that women judges have not been socialized to view themselves in protective role vis-a-vis other women. Thus, their decisions affecting women offenders will be based more on the fact of the case and circumstances of the crime than on a paternalistic view of the "weaker sex".

Out of this analysis emerge two competing positions which have their foundations in the concepts of chivalry and paternalism. One position states that chivalry and paternalism have resulted in preferential treatment of female offenders, and the other states that chivalry and paternalism have resulted in harsh and punitive treatment of female offenders.

This study bases its argument on the later position. The grounds for this position are based on the indeterminate sentencing laws of states such as Pennsylvania, Iowa, Maryland, New Jersey, Arkansas, Maine, Massachusetts, Connecticut and others where, as pointed at severally in this paper, men receive shorter (determinate) sentences than women for identical crimes. It is also based on other discriminatory practices engaged in by the system which are causing female offenders to be sent to prison quicker and longer. As Moulds and others point out, this deferential sentencing statutes, which

allowed women to be incarcerated for longer period of time than men for similar offenses, seemed to reinforce the stereotype of women as weak and in need of protection by virtue of their natural difference. In addition, they posit that these discriminatory sentences and other practices were traditionally justified on the grounds that women have greater rehabilitative potential. It is argued, therefore, that women will benefit from longer sentences (Moyer, 1985).

## CHAPTER III

### THEORY

#### Introduction

Research in the differential processing of females by the criminal justice system is still in its infancy and so is the theoretical application. Even general research on female participation in criminal activities has so long been ignored by social researchers that no clear-cut theoretical perspective has been applied or suggested. There are recent publications by Moulds (1978) and Rafter and Natalizia (1981) in which conflict theory was applied to definition of crime involving females as offenders, victims and professionals. Conflict theory has also been variously applied to studying other victims of inequitable treatment by the criminal justice system such as poor and members of minorities which also include women.

In view of the basic concerns of this study, conflict and power perspectives seem to represent most appropriate theoretical understanding in explaining how female offenders are treated by the criminal justice system. After reviewing these perspectives, some basic assumptions of these perspectives are outlined and considerations are made on how they can be applied to the of treatment of female offenders by the criminal justice system.

### Conflict and Power Theoretical Perspectives

The combination of perspectives implied in this research will facilitate understanding in various broad issues in this study concerning differential processing of female offenders. The various parts of these theoretical perspectives utilized in fostering understanding of issues in this research include: interest group theory approach; female, law, and conflict; female, crime and conflict perspective; and the Oklahoma situation.

The conflict theoretical tradition is a venerable one in the social sciences. According to LaFree (1989, 35), it has been traced from the cynical realism of Niccolo Machiavelli (1469-1527) and Thomas Hobbes (1588-1679) through the historical materialism of Karl Marx (1818-1883) and the complexities added to the Marxian framework by Max Weber (1864-1920) and finally to contemporary theoretical concerns with the state and legal order. Social power itself has been the topic of many complex analyses. However, LaFree points out that the most generally accepted definition is probably the one developed by Max Weber in 1946, who conceptualized power as "the probability of being able to secure one's own ends in a relationship, even against opposition". For criminology, writes LaFree, the most fundamental characteristics of conflict theory is perhaps its insistence that individuals or groups with greater social power are better able to create and enforce the criminal law for their own benefit.

Conflict perspective usually presents questions about the actions of those who define who and what is deviant. Some of its

usual questions ask where do rules/laws come from and how are they enforced? Rules come and laws according to conflict perspective grow out of the political power struggles between interest groups. Law enforcement is largely dependent on whether it is in the best interest of the most powerful individuals or groups. Conflict perspective maintains that the ability to label another's behavior as unacceptable--that is, deviant--and to punish that person for it is a sign of privilege and status. To be labelled deviant and be subjected to informal as well as formal enforcement proceedings is a sign of low status. Deviance, conceived as publicly labelled ill-conduct, then may be viewed as a product of politics and class conflict where in the politically powerful rely on law to neutralize the actions of the less powerful (Traub and Little, 1981).

Conflict perspective as pointed out by LaFree also assumes that people generally pursue their own self-interest, defined in large part by their subgroup memberships (especially, economic class, race, ethnicity, sex, age, et cetera). Dominant groups use power and violence to maintain their superior positions. As Sellin indicates (in Traub and Little, 1981), social groups place restrictions on the activities of some of their members to insure the protection of social values which can be injured by unrestricted conduct.

#### Interest Group Theories

One of the earliest examples of an interest group theories approach to the study of crime according to LaFree (1981) is sociologist Thorsten Sellin's 1938 book, Culture, Conflict, and

Crime. Sellin argues in a nutshell that in a situation where you have different groups with varied interests, that people with the greatest social power will probably succeed in having its way of behaving defined as normal and other group's behavior as deviant or criminal.

Other researchers have also developed conflict theories based on interest group theories. Vold's 1958 Group-Conflict theory is based on observation that a good deal of social interaction is a product of group association. Vold argues that because the resources are limited, effective organized groups generally have the power to secure a greater share of resources for their members, and a major avenue for securing greater resources through the control of law. He maintains that more powerful groups are able to use the assets of the organized state to support themselves in their conflicts with other groups. This includes conflicts over determining legal definitions of crime and how these definitions are applied (LaFree, 1989).

Similar arguments have also been made by other contemporary criminologists like Austin Turk (1969), Richard Quinney (1970), and William Chambliss and Robert Seidman (1971). Turk's theory of criminalization specifies the condition under which cultural and social differences between legal authorities and their subjects result in conflict, the conditions under which the authorities would use law and criminal definitions, and the conditions under which punishments and deprivations associated with becoming a criminal will be greater or lesser (LaFree, 1989). Similarly, Quinney's 1970's work on the social reality of crime includes a set of propositions

that define how criminal laws are formulated and applied. Quinney argues that "criminal definitions describe behaviors that conflict with the interests of the segment of society that have the power to shape public policy", and that they in turn are applied to "by the segments of society that have the power to shape the enforcement and administration of criminal law". Likewise, Chambliss and Seidman, in their analysis of the criminal justice system, maintain that "the higher a group's political and economic position, the greater is the probability that its views will be reflected in the laws" (LaFree, 1989).

#### Female, Law and Conflict

According to Rafter and Natalizia (1981), legal policy and structures evolve in response to the particular system of morals prevalent in the given society. This means that in this society, law reflects the dominant moral code which restricts females to specific roles within the society. Violations of these moral codes defining female's proper behavior are labelled as deviant and punished by stringent sanctions. Both Quinney and Chambliss and Seidman have emphasized that the criminal law is created and interpreted by officials representing special interests, who have the power to translate their vested interests in public policy. Although the legal system is the most explicit form of social control in this society, these researchers argue that the law does not represent the norms and values of all persons in our society. Instead, the governing process operates according the interests that characterize



the socially differentiated positions of Quinney, Chambliss and Seidman (in Moyer, 1985, 8). These authors also contend that interest structure is characterized by an unequal distribution of power and conflict so that the higher a group's political and economic position, the greater is the probability that its views will be reflected in the laws. For these authors, power and conflict are inextricably linked in their conception of interest structure. Power, as ability to shape public policy, produces conflict between the competing segments, and conflict, in turn, produces differences in the distribution of power. Law thus becomes an instrument of social control over nonconforming females and a means of preserving the normal and dominant social order.

Rafter and Natalizia (1981, 83) point out that historically, the entire justice system has been dominated by men. They maintain that our legal framework "has been codified by male legislators, enforced by male police officers, and interpreted by male judges, prisons system managed by male rehabilitation programs administered by males. By being dominant in these systems, they inject their personal values and interest in policies which affect female offenders."

### Female, Crime, and Conflict

#### Perspectives

The criminal justice system is dominated by officials who have power and influence to translate their values and vested interests to shape public policy. As Moyer (1985) points out, these officials make critical decisions that affect the in-puts of the criminal justice system. As one of the traditionally oppressed and

subordinate social groups with less power and small influence in shaping policy, females who engage in a nontraditional female behavior would be perceived as deviating. Such behaviors would be viewed as conflicting with the way behavior expected them by people who have the social power to define the appropriate behavior for females. As Sellin earlier indicated, restrictions would be placed on such to ensure the protection of social values which can be injured by unrestricted conduct. Quinney also points out that under such a condition, criminal definitions would be applied to such behaviors which are viewed as conflicting with the interests and values of the segment of society that have the power to shape public policy, and in turn are applied to by the segment of society that have the power to shape the enforcement and administration of criminal law.

As crime in this society has traditionally been a male activity, recent increasing involvement of females into criminal activities, especially into serious crimes, as previously stated, has been perceived as flagrant deviation from expected female behavior. This recent female behavior is thus conceived by the social segment with social power as conflicting with their own interests and values. As a result, these females are being responded to with criminal definition and labels, punitive treatment and stringent sanctions.

#### The Oklahoma Situation

According state corrections officials, Oklahoma is reputed as having a heritage as a no-nonsense, frontier land in the middle of

Bible Belt. Oklahoma is one of the middle Bible-Belt states which appear to adhere strictly to the traditional attitudes and values of gender roles. The lines of gender roles appear to be very specified and clearly drawn. There seems to be certain expected behaviors based on gender. Such attitudes not only seem to appear reflected in the making of laws and policies. As a no-nonsense frontier land in the middle of Bible Belt as indicated by corrections officials, it would be expected that the official policy would reflect the traditional attitudes and values held by officials and other influential interest groups which may include certain expected behaviors for females. Females who deviate from those expected behaviors would be seen as engaging in behaviors which conflict with not only the expected female behavior, but also violate the standards and values held by those who have the social power to define what is deviant and what not. As Quinney (1970) indicates, criminal would be assigned to such behaviors which conflict with the interest and values of those segments of society that have the power to shape public policy.

Crimes, especially serious crimes are some of those behaviors whose female involvements illicit strong social disapproval and condemnation. With the recent increasing female participation in criminal activities in Oklahoma as previously shown, both the officials of the Oklahoma criminal justice system whose official policy appears to reflect their shared traditional attitudes and values, and other influential individuals with power to affect social policy in the state, will view female behavior as a departure,

deviation and in conflict with their own. As a result, female offenders may be responded to with negative labels and stringent sanctions. This supports the state's corrections officials statements while reacting to Oklahoma's national lead in percentage of incarcerated females. According to the director of Oklahoma Department of Corrections, "the people in this state don't have too much sympathy for people who break the law." More specifically, a regional correction director for northeastern Oklahoma stated, "If a female in this state commits a felony, she probably stands as good a chance of being incarcerated as her male counterpart" (Mecoy, 1991).

## CHAPTER IV

### METHODOLOGY

#### Introduction

This study considers whether differential treatment of female offenders exists in the criminal justice system in Oklahoma. It specifically focuses on examining the number and percentage of female arrests, incarcerations and judicial attitudes to determine if differential treatment of female offenders may have led to a high percentage increase in the number of female incarcerations in Oklahoma. This study will examine some of the systems's practices of arrest and sentencing, decision-making processes, and attitudes of some of the system's personnel to see how they relate to the increasing number of females in the Oklahoma inmate population.

#### Research Design

The research design for this study is divided into three parts. The first part involves the collection of adult police arrests data from the Oklahoma State Bureau of Investigation for the years 1985, 1987, 1989 and 1991. In the second part, 20,932 receptions for adult male and female offenders between the 1985, 1987, 1989 and 1991 time periods were collected from the Oklahoma State Department of Corrections. The third part involves administering attitude

questionnaires to 234 of the 243 judges in the entire state of Oklahoma.

By using these various methods, the author anticipates to find out if the high percentage of female offenders in Oklahoma Corrections is a result of harsher treatment meted out to them by the criminal justice system in Oklahoma.

#### Sources of the Data

The data for this study were collected from various sources as indicated above. These sources included: state agencies, arrest data from the Oklahoma State Bureau of Investigation annual Crime Report, sentencing data for male and female inmates from the Oklahoma Department of Corrections, and finally, by administering questionnaires to judges in the entire state of Oklahoma.

#### Arrests Data

First, arrest data, collected from the Oklahoma State Bureau of Investigation annual Crime Report Book, was obtained from the Government Document Section of Edmond Low Library, Oklahoma State University. The data were on adult arrests and cover the 1985, 1987, 1989 and 1991 time periods. The Oklahoma State Bureau of Investigation (OSBI) Crime Report Book is an annual report book prepared by OSBI which documents all arrests made in the state of Oklahoma within a one year time period. Offenses analyzed for this study included: murder, manslaughter, robbery, aggravated assault, burglary, larceny (theft), motor vehicle theft, other assaults,

arson, forgery and counterfeiting, fraud, embezzlement, stolen property, buying, receiving and possessing, vandalism, weapon carrying and possession, prostitution and commercialized vice, sex offenses (except rape and prostitution), drug abuse violations, sale, manufacturing and possessions, gambling, offense against family and children, driving under influence, drunkenness, disorderly conduct and all other offenses. These arrest data covered all counties in the state and will be analyzed by year.

#### Prison Receptions (Sentencing)

Second, 20,932 receptions of males and females serving various prison sentences in Oklahoma were collected from the Oklahoma State Department of Corrections. These reception covered the entire state inmate prison population in the following selected years: 1985, 1987, 1989, and 1991. The reasons for the choice of time periods were based on the following: First, 1985 was the year the Oklahoma Department of Corrections began to keep an organized database records of the inmates. Second, Oklahoma became the leading state in the number of female incarcerations in 1988. Since the Department of Corrections began an organized data base in 1985, it was concluded that analysis from this year would allow the establishment of any pattern of differential treatment.

#### Data Profile

These receptions include the following variables: crime classification, sex, race, marital status, reception year, reception

numbers (recidivism), sentence length (which ranges from .00 years to 2005.18 years), and also included life, life without parole, and death. There were 29 crime categories classified according the 1988 National Council on Crime and Delinquency classification system. However, a few offenses such as uumv, unknown, escape, and rape were excluded from analysis. For example, rape is a predominantly male offense. These offenses are shown on Table I.

The demographic variables shown in Tables I and II explain the variables contained in the reception data. Table I explains 25 crime categories by percentage and total number according the 1988 National Council on Crime and Delinquency. As the Table shows, the most frequently committed crime in Oklahoma in the time period in question is larceny (3,351) with 16.0 percent. Second to larceny is burglary (2,598) with 12.4 percent. Burglary is followed by driving under the influence (2,536) with 12.1 percent. The Table also shows that other frequently committed crimes are drug distribution (2,472) with 11.8 percent, poss/obt drugs (1,714) with 8.2 percent, robbery (1,210) with 5.8 percent, assault (803) with 3.8 percent and sex offenses (718) with 3.4 percent. The least convicted offenses according these Tables include-gambling (6) with .0 percent, unknown offenses (18) with .1 percent, kidnapping (71) with .3 percent, drug trafficking (86) with .4 percent, arson (139) with .7 percent and other violent (181) with .9 percent.

As shown in Table II, there are 18,590 male and 2,342 female receptions during this time period, representing 88.8% and 11.2% respectively. Racial composition shows that there are .0% Asian (5),



TABLE I

NCCD CRIME CLASSIFICATION SYSTEM BY TOTAL NUMBER AND PERCENTAGE  
RECEIVED IN 1985, 1987, 1989 AND 1991

Crime	Total Number	Percent
Burglary 11	2598	12.4
Larceny	3351	16.0
Bogus check-card	476	2.3
Forgery	847	4.0
Fraud	319	1.5
Embezzlement	293	1.4
UUMV	515	2.5
DUI-2ND	2536	12.1
POSS/OBT DRUGS	1714	8.2
DISTR. DRUGS	2472	11.8
ESCAPE	158	.8
BURGLARY 1	331	1.6
Murder 1	260	1.2
MANSLAUGHTER	267	1.3
KIDNAPPING	71	.3
ROBBERY	1210	5.8
ASSAULT	803	3.8
ARSON	139	.7
SEX	718	3.4
WEAPONS	530	2.5
GAMBLING	6	.0

TABLE I (Continued)

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Crime	Total Number	Percent
OTHER VIOLENT	181	.9
OTHER NON VIOLENT	415	2.0
UNKNOWN	18	.1
DRUG TRAFFICKING	86	.4

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Source: Oklahoma Department of Corrections

TABLE II

TOTAL NUMBER AND PERCENTAGE OF RECEPTIONS IN OKLAHOMA PRISONS  
BY DEMOGRAPHIC VARIABLES IN 1985, 1987, 1989 AND 1991

Variables	Categories	Numbers	*Percent
Sex	Male	18,590	88.8
	Female	<u>2,342</u>	<u>11.2</u>
		20,932	100.0
Race	Asian	5	.0
	Black	6,442	30.8
	Chinese	3	.0
	Hispanic	114	.5
	American Ind.	1,287	6.1
	Mexican	410	2.0
	Other	61	.3
	White	<u>12,610</u>	<u>60.2</u>
	20,932	100.0	
Marital Status	Unknown	3,209	15.3
	Single	6,030	28.8
	Divorced-Sep.	4,481	21.4
	Married	<u>7,212</u>	<u>34.5</u>
		20,932	100.0
Reception Years	1985	3,388	16.2
	1987	5,212	24.9
	1989	6,269	29.9
	1991	<u>6,063</u>	<u>29.0</u>
		20,932	100.0
Number of Offenses	1ST	15,016	71.7
	2ND	4,236	20.2
	3RD	1,313	6.3
	4TH	302	1.4
	5TH	53	.3
	6TH	10	.0
	7TH	<u>2</u>	<u>.0</u>
		20,932	100.0
Sentence Length in Categories	.00-1 Yrs.	3257	15.6
	1-2 Yrs.	4545	21.7
	2-3 Yrs.	2885	13.8
	3-5 Yrs.	4457	21.3
	5-10 Yrs.	3212	15.3
	10-20 Yrs.	148	7.1
	20-60 Yrs.	6	3.2
	61-2005.18	<u>84</u>	<u>.2</u>
		18,594	98.2

TABLE II (Continued)

Variables	Categories	Numbers	*Percent
Life	8880.00	238	1.1
Life Without Parole	7770.00	37	.2
Death	9990.00	<u>58</u>	<u>.3</u>
		417	1.6

Source: Oklahoma Department of Corrections

\* % rounded to 100

30 percent Blacks (6,442), .0 percent Chinese (3), .5 percent Hispanic (114), 6.1 percent American Indians (1287), 2.0 percent Mexicans (410), .3 percent Other (61) and 60.2 percent Whites (12,610). According to this table, the marital status of these offenders show 15.3 percent as unknown (3209), 28.8 percent as single (6030), 21.4 percent as divorced or separated (4,481), and 34.5 percent as married (7,212). One thing that is clear according to this table is that married people constitute slightly over one-third of this population. With regard to yearly receptions, 16.2 percent of the inmates were received in 1985 (3,388), 24.9 percent in 1987 (5,212), 29.9 percent in 1987 (6,269) and 29.0 percent in 1991 (6,063). It is obvious from this table that there has been an increase in the years shown except in the last year, 1991, where it seemed to have begun to level off or decrease.

Table II also explains sentence length. For the sake of this research, sentence length is divided into two parts. The first part is the actual number of years the offender is sentenced to serve. The second part of sentence length is defined as life, life without parole, and death. The first part ranges from .00 years to 2005.18 years. As shown in Table II on sentence length, 98 percent of the sentence length fell from .00 to 60 years of sentence, and 61 to 2005.18 years is only 0.2 percent of the sentence length. Of these receptions, life sentence constitutes 1.1 percent, life without parole 0.2 percent and, death 0.3 percent. Ninety-eight percent of these receptions received a sentence length of 60 years or less. This analysis will focus on those sentenced between .00 years to 60 years.

While this research was in process, there was a question concerning what it meant for an offender to receive a sentence length of 60 to 2005.18 years which is neither a life sentence, life without parole or a death sentence. In order to answer that question, a local district attorney was contacted for an expert opinion. The Payne County District Attorney stated that there are many reasons this could happen. One is that such a lengthy sentence could result from cumulative of multiple convictions on different offenses. This means that an offender charged with multiple offenses could be convicted on each count which when sentenced could result in a lengthy sentence. Another reason is that because of some technicalities in actual time served, juries or judges might give an offender a very lengthy sentence just to make sure that the offender does not ever get out. The reason for that, according to the District Attorney, is that theoretically, offenders usually serve only 7 to 9 percent of their sentence before they are due for parole. If the sentence length is beyond ten years, the offender serves only 10 percent of his/her time before being eligible for parole. That in actual sense means that if the offender is not given such a lengthy sentence, the offender could be eligible for parole after serving only 10 percent of the time given. This can return many dangerous offenders to the street quickly. Therefore, in order to make sure that the offender stays off the street as long as possible, juries and judges use lengthened sentences in specific number of years as another option rather than life sentence. The reason is because eligibility for life sentence comes after the offender has served 10 percent of the given sentence.

### Questionnaires

Finally, questionnaires were administered to 234 of the 243 judges from all counties in the entire state of Oklahoma. Questionnaires were mailed once with a covering letter explaining the purpose of the study and also assuring them of absolute confidence and anonymity of their responses. There was no follow-up due to financial constraints. Judges who were surveyed include Supreme Court judges, Criminal Appeals court judges, Court of Appeals judges, District judges, Associate District judges, Special judges and Municipal court judges. Nine judges who were not surveyed were all worker's compensation court judges who do not preside over criminal jurisdictions. Judges presiding over criminal jurisdictions represent an important group of system's personnel. The decisions they make daily in courts clearly affect the lives of criminal offenders, including female offenders. From earlier discussions, it was indicated that judicial decision making process often reflects the traditional social values which they share. As pointed out by Wikler, sex-based bias influences decision-making in American courts. Wikler also points out that "prevailing myths appear to influence the perceptions and responses of some judges" (Wikler, 1980, 207). In this context, it is apparent that judicial attitudes and values concerning feminine role models in both the law abiding and criminal sectors of society represent a crucial element of the decision-making process which helps to shape the pattern of female crime. It has been assumed that the perceived stereotypes for female role model in contemporary society and the female felons would influence judge's

reactions to female offenders. It was on this assumption that this questionnaire were administered to these judges. Specific topics which were explained in this questionnaire include: (1) attitudes of judges toward feminism, and (2) judicial perceptions of female felons.

#### Oklahoma Judges

The information containing the names of these judges, jurisdictional levels and addresses were obtained from the Oklahoma State Administrative Office of the Courts in Oklahoma City. According to this information, there are a total of 243 active judges in the state of Oklahoma. Their jurisdictional levels and numbers are shown in Table III. Table IV below also explains the number of active judges in the state.

The first part of this questionnaire involved five demographic items which sought the subjects sex, age range, marital status, race/ethnicity and jurisdictional levels. The second involved the application of 13 items designed to measure judicial attitudes toward feminism. The questionnaire, which focused on occupational, domestic and social role identities for female in contemporary society, was, according to Helen Stone (in Moyer, 1983), derived from a belief pattern scale constructed by Clifford Kirpatrick in 1936. This questionnaire was used by Stone to measure police officer's attitudes. A Likert type scale was adopted for scoring the responses to items on the questionnaire. Respondents were allowed five possible choices for each item: Strongly agree, agree, no opinion,



TABLE III

## OKLAHOMA COURTS AND THEIR JURISDICTIONAL LEVELS

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Levels

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Oklahoma Supreme Court

Oklahoma Court of Criminal Appeals

Oklahoma Court of Appeals

Oklahoma District Court of Criminal and Civil

Municipal Court of Record

Municipal Court (not of Record)

Oklahoma Worker's Compensation Court

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Source: Oklahoma State Administrative Office of the Courts

TABLE IV

## OKLAHOMA ACTIVE JUDGES AND THEIR NUMBERS, 1991

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Active Judges	Number
Supreme Court Judges	8
Court of Criminal Appeals	5
Court of Appeals Judges	12
District Court	69
Associate District Judges	77
Special Judges	63
Worker's Compensation Judges	<u>9</u>
Total	243

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Source: Oklahoma Administrative Office of the Courts

disagree and strongly disagree. The third analysis involved the application of a 15-items designed to seek judicial opinions on the female offenders as well as female crime. This questionnaire which focused on seeking judicial opinions of female felons and female criminality was partly derived from interview questions administered to police officers by Helen Stone (in Moyer, 1983). Modifications and revisions of some questions were made in part three to suit the objectives of the present study. Respondents were allowed three possible choices for each item: yes, no opinion, and no.

Out of the 234 questionnaires sent out, 62 percent was returned. Descriptive statistics were used to analyze these responses. Analysis of demographic variables is shown in the Table V. According to Table V, 89.7 percent of these judges are males and 10.3 percent are female. The table also shows that majority, 93.1 percent, are Caucasian. Eighty seven and half percent are married and only 7 percent are single. Their age ranges from 30 to 75. The 45 to 50 age group is the majority with 32 percent, 40 to 45 is next with 27 percent, 51 to 55 with 20 percent, 61 to 65 with 18 percent and 36 to 40 with 17 percent. The majority, 93.8 percent, are district court judges. The large representation by the district court judges was, however, expected in view of the fact that they are the ones who preside over criminal jurisdictions. It must added also that four out of the total questionnaires returned were unanswered. One was from the Chief Justice of the Oklahoma Supreme Court who indicated that he/she wasn't in a position to answer any questions on female

TABLE V  
 PROFILES OF THE JUDGES: JUDGES' DEMOGRAPHIC VARIABLES  
 BY CATEGORY, NUMBER AND PERCENT

Variables	Category	Number	Percent
Sex	Male	130	89.7
	Female	<u>15</u>	<u>10.3</u>
		145	100.0
Race	American Indian	4	2.8
	African-American	4	2.8
	Caucasian	134	93.1
	Hispanic	<u>2</u>	<u>1.4</u>
		144	100.0
Age	30-35	7	4.9
	36-40	17	11.8
	40-45	27	18.7
	45-50	32	22.2
	51-55	20	13.9
	56-60	9	3.6
	61-65	18	12.5
	66-70	10	6.9
	71-75	<u>4</u>	<u>2.8</u>
	144	97.3	
Marital Status	Married	126	87.5
	Single	7	4.9
	Divorced	8	5.6
	Separated	2	1.4
	Widowed	1	0.7
Judicial Levels:	Municipal Court of Records	1	0.7
	Municipal Court No Records	0	0.0
	District Courts	135	93.8
	Oklahoma Court of Appeals	5	3.5
	Oklahoma Criminal Court of Appeals	2	1.4
	Oklahoma Supreme Court	<u>1</u>	<u>0.7</u>
		144	100.0

\*144 questionnaires returned or 62%

criminality because the chief justice does not preside over criminal jurisdictions. His identity was made known by a personal letter to me indicating as stated above and also wishing me good luck in my research.

The second returned questionnaire was from an Oklahoma Court of Appeals judge who informed me that both the Supreme Court and the Appeals Courts do not deal with criminal law, and therefore have no knowledge in this area. The third returned questionnaire came from an Associate District judge who, in a separate letter addressed to me and Dr. Cross, recommended that I read "Judicial Code of Ethics" by Jeffrey M. Shaman, Steven Lubet and James J. Alfini. He states "I believe it is inappropriate for a judge to express an opinion on controversial issues." He continued, "if a trial judge expresses an opinion, such an opinion could be used as evidence of partiality or favoritism in a motion to disqualify the trial judge concerning certain types of cases." And finally, the fourth returned questionnaire came from a judge who said he/she chose not to fill out my questionnaire because my grammatical construction of the questionnaire left some doubt on the reliability and accuracy of my results. These four unanswered questionnaires were among the 62 percent counted as returned.

In sum, as has been shown above, data for this study were collected from various sources including: arrest data from the Oklahoma State Bureau of Investigation annual Crime Report Book, sentencing data (receptions) collected from the Oklahoma State Department of Corrections, and administration of questionnaires to 234 judges in the entire state of Oklahoma.

### Methods of Data Analysis

The data obtained from the sources cited above were analyzed on three different levels in order to facilitate the meeting of the stated research objectives. These levels of analysis encompass the following: (1) analysis and comparison of arrests data by offense and years; (2) analysis and comparison of sentencing (receptions) data by sex, crime, reception years, reception numbers, race, marital status, and sentence length; and (3) analysis of the questionnaires in two parts--judicial opinions toward feminism and judicial attitudes toward female crime and female felons. Analysis of these parts of the questionnaires used to evaluate judicial attitudes assumed to influence their decision-making process toward female offenders. Numerous tables have been constructed in order to facilitate better interpretation, comparison and analysis of variables. Considering the exploratory and descriptive nature of this study, crosstabulation of percentages, means and numbers is the procedure used for data analysis.

As indicated above, percentages, means and numbers of cases are used as the basic research instruments in this study, rather than numerics and rates. This study does not concern itself with the rates of incarceration of male and female offenders, and does not wish to be seen as such.

To ensure validity of comparisons with different data bases, comparisons were only made based on variables available in the data bases. No effort was made to generalize the increase of female

incarcerations in Oklahoma to the increase, decrease, or to the total inmate population in Oklahoma. This study merely seeks to examine the patterns of possible differential treatment of female offenders, which may have resulted in higher incarcerations, thereby increasing the percentage of female offenders in the inmate general population in Oklahoma.

#### Arrests Data

In order to determine if the increasing number of female incarcerations in Oklahoma, which in effect may lead to increases in the percentage of female inmate population relative to males, has any relationship to the number of arrests, arrests data from the Oklahoma State Bureau of Investigation were examined and analyzed. As indicated earlier, these arrests data cover the years 1985, 1987, 1989 and 1991. The analysis of these offense categories focused on the number and percentage of females arrested over these years. Comparisons, therefore, focused on arrests made of females on these offenses over the four year period. The purpose is to determine the trend of female arrests over these number of years. Since the primary reason for analyzing this data is to determine the trend of increase or decrease of female involvement in these offenses over the years, the analysis of the offenses was carried out in three parts. The first analysis looked at the percentage of female arrests in violent offenses in relationship to arrests made of female offenders over the four year time period. These violent offenses are offenses traditionally associated with males. These offenses include: murder,

homicide, manslaughter, burglary, robbery, larceny, aggravated assaults, thefts, auto thefts, arson and weapon carrying and possession.

The second part looks at the percentage of female arrests in nonviolent offenses--offenses traditionally associated with females. Such offenses include: forgery and counterfeiting, fraud, embezzlement, vandalism, prostitution and commercialized vice, sex offense (except) rape and prostitution, gambling, and disorderly conduct. These analyses will look at the percentage of female arrest trends in relationship to males in those violent and nonviolent offenses.

The third part looked at the percentage of female arrests in drugs and drug related offenses such as possession, distribution, trafficking and driving under the influence. It will also identify specific offenses where there have been increases or decreases over these years. It is expected that increase or decrease of the number of arrests would help shed some light on the trend of female receptions in Oklahoma.

#### Sentencing (Receptions) Data

In order to determine whether or not female offenders get more lenient or severe sentences than male convicted of similar offenses, sentencing data for a four year period were collected from the Department of Corrections for analysis and comparisons. The reasons for the choice of years have already been pointed out earlier. Sentence length was analyzed and compared based on sex, reception

year, recidivism, marital status and race. Again, for easier analysis, the offenses were collapsed into three offense categories: violent, nonviolent, and drug and drug related. The single determining factor here is the means of the sentence length. A simple analysis of variance was applied to obtain the average sentence length of different variables applied. Before testing for the influence of sex on sentence length however, a frequency procedure was applied to obtain the percentages of female inmate receptions per an offense for the four year period. This will be compared with the arrests data in order to determine if the percentage of arrests relates to the percentage of inmates for each offense in the time period in question.

Several controlling operations were carried out using different methods and variables in order to determine the influence of sex on sentence length. The first operation as pointed out above, involves applying a frequency procedure to obtain the number and percentage of inmate receptions over the four year period. This will help to shed some light on the trend of female involvement in these offenses.

The second operation involves applying a simple analysis of variance to seek the average sentence length by sex, offenses and reception year. This involves only sentence length between .00 to 60 years. As shown in sentence length on Table II, sentence length between .00 to 60 years constitutes 98 percent of the total sentence length. From this procedure, we can determine the average sentence length for male and female offenders by offenses and years received.



In the third operation, the same procedure was applied except that the years were extended. This operation looked at the average sentence length from 61 to 2005.18 years, which is the longest sentence given, and which are either life, life without parole, or death. There are two things that need be brought out about this very operation. One is that sentence length 61 to 2005.18 years constitutes only 0.2 percent of the total sentence length in this data base. Secondly, there are no females found sentenced to 61 to 2005.18 years--all are male offenders. In view of this fact, no comparison was made with this information.

The fourth operation involves the application of a chi-square procedure to sentence length involving life, life without parole and death. The purpose of this chi-square operation was to find out what proportion of male and female received either of these kinds of sentence length for conviction for any of these offenses. This procedure will help shed some light on the type of offenses for which females are more likely to be given this kind of sentence as compared to males.

The fifth operation appears to be the most effective method of determining the influence of sex on sentence length. This operation sought the average sentence length by sex, offense and number of repeat offenses (recidivism). As shown on Table II, there are seven repeat offender categories. First time offenders constitute 71.7 percent (15016) of the offense, second offenders 20.2 percent (4236), third offenders 6.3 percent (1313), fourth offenders 1.4 percent (302), fifth offenders 0.3 percent (53), sixth offenders .0

percent (10) and seventh offenders .0 percent (2). Since the numbers from fourth to seventh appear insignificant, they are merged into number three, thereby collapsing the reception number (recidivism) into only three categories--first, second, and third offenders. A simple analysis of variance was thereafter applied to get the means for the sentence length of these collapsed repeat offense (recidivism) by sex and offense.

The sixth operation also used the same statistical method to examine average sentence length of the female offenders by race and offense. The primary objective in this procedure is to find out the average sentence length for white and nonwhite female offenders in those offenses. This is significant in view of the issues raised in the literature that white female offenders appear to be recipients of lenient treatment than nonwhite females.

The final operation involves using a simple analysis of variance to seek the average sentence length on marital status of these offenders. The literature indicates that women who act like they are married appear to receive some kind of leniency from the criminal justice personnel whereas those who appear not married are treated somewhat harshly. This kind of treatment may apply to both male and female offenders.

### Questionnaires

In order to determine whether judge's judicial decision-making process toward female offenders is actually influenced by the judge's social values and traditional attitudes, questionnaires seeking their

opinions toward feminism, female crime and female felons were analyzed. As indicated above, these questionnaires were analyzed in two parts. The first part examined their responses on feminism. The second part examined their opinions toward female felons and female crime in general. A factor analysis procedure was used to obtain the average response from each item on all the items on feminism, as well as on all the items on female felons. Also, the same procedure was used to obtain an average total response from feminism and female felons. These means will help shed some light not only on how the subjects responded on each item on attitudes toward feminism and female felons, but also on the total response on these two issues.

#### Validity and Reliability of Quantitative Data

Before further analysis was undertaken, steps were taken to assess the reliability and validity of these two scales. The issues of reliability and validity in a research of this type are very essential. They are important component in every kind of research. In discussing validity of measurement, Selltitz, et al., state:

certain basic questions must be asked about any measuring instrument: What does it measure? Are the data it provides relevant to the characteristics in which one is interested? To what extent do the differences in scores represent true differences in the characteristics we are trying to measure; to what extent do they reflect also the influence of other factors? (in Bailey, 1982, 49).

In addition to validity, there is also concern with the reliability of the measuring instrument which simply means the consistency of the measurement. Wright (1979) points out that reliability can be estimated by how consistent items are among themselves, or how well

correlated they are with each other.

The survey instrument used for this research consisted of two scales. The first scale measured judicial attitudes toward feminism, and second one measured judicial opinions toward female criminality. Reliability of the two scales was statistically assessed via Cronbach's alpha (Nunnally, 1967), and construct validity of the scales was assessed using factor analysis. As pointed out earlier, these scales had been previously used, but they were neither pre-tested nor post-tested for this particular research.

#### Judicial Attitudes Toward Feminism

The Judicial Attitudes scale sought judicial attitudes toward feminist issues. This scale was made up of 13 items which asked respondents to agree or disagree on a five-point scale with questions seeking their opinions on feminine issues. A reliability test of this scale yielded an alpha of .96. Alpha, according to Nunnally (1967), measures inter item consistency 0-1.00, and a scale must yield .7 to be reliable (see Table VI). Factor analysis on this items produced a structure of two factors. In order to test for construct validity, Nunnally (1967) points out that a factor loading must yield  $>.40$  on the first unrotated factor. The factors are then rotated in order to see what dimensions are present. To load on a rotated factor a loading must be twice as strong as on another factor. In this scale all but two of the 13 items ( $-.13, .02$ ) resulted in a minimum loading of .4 on the first unrotated factor. Orthogonal rotation of the two factors resulted to a loading in which all but two of the 13 items ( $.69, .77$ ) yielded a minimum of .81 (see

TABLE VI  
 FACTOR LOADINGS ON JUDICIAL ATTITUDES TOWARD FEMINISM ITEMS

Items	Mean	Unrotated First Factor	Factors Rotated Orthogonally	
			1	11
1. Women should have the right to compete with men for all kinds of jobs	1.30	-.13	---	.69
2. Regardless of sex there should be equal pay for equal work	1.30	.98	.98	---
3. Women should be encouraged to become judges	1.80	.98	.98	---
4. Women should be given equal opportunities with men for vocational training	1.35	.97	.97	---
5. Male workers should receive higher pay than female workers since they usually have a family to support	4.75	.95	.94	---
6. Women should be encouraged to seek employment in the fields where they will compete with men	2.50	.96	.97	---
7. Appointments and promotions should be determined by how well a person does a job and not whether he/she is a man or a woman	1.31	.98	.98	---
8. Husband and wife should share household chores if the wife works outside the home	1.55	.95	.96	---

TABLE VI (Continued)

Items	Mean	Unrotated First Factor	Factors Rotated Orthogonally	
			1	11
9. Married women should be able to withhold sex as they choose	2.42	.94	.95	---
10. A man has a right to expect his wife to accept his views of what the family can afford to buy	4.06	.83	.81	---
11. Women should feel flattered by special attention shown to them by men (opening door, etc.)	3.13	.94	.93	---
12. A single woman should be allowed to have as many partners as she desires	3.09	.93	.93	---
13. A woman who asks a man for a date is being bold	3.82	.02	---	.77

Range 0-5, Highest  
# is least agree  
2.5 is center

Table VI). One factor contained the two items that did not load at limit .4 on first factor. One factor was loaded by the rest of the items.

#### Judicial Opinions Toward

##### Female Criminality

The judicial opinions scale contained 15 items which sought the opinions of Oklahoma judiciary on female criminality and female felons in Oklahoma. These items yielded an alpha of .85, and a factor analysis of these items resulted in four factors with all items having a loading of at least .38 on the first unrotated factor. Orthogonal rotation of the four factors yielded a loading in which the least was .11 (see Table VII). Items 1, 2, 9, 10, loaded well on first rotated factor. Item 7 loaded well on second rotated factor, items 13 and 14 loaded well on third rotated factor and finally, item 15 loaded well on fourth rotated factor.

#### Data Handling and Analysis

Prior to the commencement of statistical analysis, data were coded and entered into the University Computer Center's IBM mainframe. The data entry operation was done by the University Computer Center's student Aide Assistant. Statistical procedures used in this analysis include simple analysis of variance and factor analysis. Some statistical procedures proceeded as soon as validity of the data was established. Assistance in some statistical applications as well as interpretations were also obtained from a graduate student aide as well as my committee members.

TABLE VII  
 FACTOR LOADINGS ON JUDICIAL OPINIONS TOWARD  
 FEMALE CRIMINALITY ITEMS

Items	Mean	Unrotated First Factor	Factors Rotated Orthogonally			
			I	II	III	IV
1. Is the incidence of female crime changing?	1.11	.65	.76	---	---	---
2. Are women engaging in more crime now than before?	1.30	.69	.85	---	---	---
3. Is it accurate to talk about "masculine" and "feminine crimes?"	1.88	.44	.02	.29	.41	.29
4. Has your impression of female felons changed in the last decades?	1.74	.61	.33	.31	.02	.55
5. Are contemporary female felons more aggressive today than in the last decades?	1.61	.73	.39	.53	.16	.35
6. Do other judges see female felons in more aggressive light?	2.36	.57	.18	.53	.09	.38
7. Is the woman's movement responsible for the change in the behavior of female felons?	2.22	.47	---	.79	---	---
8. Are female offenders getting lenient sentences?	1.80	.64	.35	.53	.33	.04
9. Have you been noticing an increasing load of female cases in your court?	1.26	.70	.86	---	---	---



TABLE VII (Continued)

Items	Mean	Unrotated First Factor	Factors Rotated Orthogonally			
			I	II	III	IV
10. If you answered "Yes" to the above question, have your sentencing decisions been influenced in any way by this increasing load?	2.01	.68	.69	---	---	---
11. Do you think that female crimes are getting more dangerous?	1.69	.67	.50	.52	.00	.23
12. Do you think that women benefit more from longer prison rehabilitation than the males?	2.2	.38	---	---	.62	---
13. Do you think that females generally are treated harshly by the criminal justice system?	2.03	.53	---	---	.74	---
14. Do you think that women in prison are treated harshly?	2.48	.44	---	---	.75	---
15. Are women better prospects for probation and parole than the males?	2.01	.46	---	---	---	.84

Response Categories: Yes = 1, No opinion, No = 3

## CHAPTER V

### RESULTS AND FINDINGS

#### Introduction

As discussed in the review of literature (Chapter II), with the sudden increases in both the percentage of females arrested and incarcerated, there continues to be confusion about the role played by gender in the criminal justice processing. As Wilbanks (1986) pointed out, there is considerable controversy about whether female offenders receive preferential, punitive, or equal treatment at the criminal justice decision points.

With Oklahoma leading the nation in the percentage of female incarcerations, this study examines the following aspects of the criminal justice process: arrests, sentence length, and potential factors influencing the judicial decision-making process such as attitudes and opinions toward feminism and female criminality. The purpose of examining these decision points is to identify potential causes of high incarcerations of female offenders in Oklahoma. In order to achieve this goal, several relatively general research objectives were identified to give some direction to the research.

The purpose of this chapter is to describe the findings from the current set of data relevant to each of those research objectives. Possible meanings and reasons for the results obtained will be

discussed also, along with consequences which could follow from certain kinds of knowledge or attitudes. Where possible, references will be made to the literature to support or not support some specific findings. One of the specific research objectives of this study is to determine if the percentage of female arrests have increased between 1985, 1987, 1989, and 1991 on selected offenses. This objective was accomplished by analyzing 35 offense categories of adult female arrests data compiled by the Oklahoma State Bureau of Investigation in the time period specified above. The arrest data were examined in three sections: violent, nonviolent, and drug-related offenses. These data were examined by specifically looking at the trend of female arrests over these years. As indicated earlier, the purpose of this examination is to determine the trend of increases or decreases of female arrests in frequency and percentage over these years. It is expected that an increasing trend of female arrests over these years may have possible relationships to the high percentage of female incarcerations in the state.

The percentage of female arrests nationally has been on the increase. According to Bowker (1978), adult women comprised about 14.9 percent of those arrested in 1975. In 1982, Ghali and Chesney-Lind (1986) pointed out that women constituted 15 percent of those arrested. The United States Department of Justice, Bureau of Justice Special Reports on Women in Prison (1991, 1992) reported even further increases in the percentage of women arrested. The 1992 Report shows that female arrests increased by 33.6 percent from 1983

to 1989. It also shows that women accounted for 18.1 percent of all adult arrests in 1989, up from 16.6 percent in 1983. Table VIII shows the number and percentage of total female-to-male arrests in Oklahoma for the four years analyzed.

With respect to Oklahoma, the national trend seems to hold course. As shown in Table VIII, there is a modest increase in the total number as well as in percent of female arrests. The increase is small but is in a consistent pattern. This table shows that females accounted for 15.8 percent of those arrested in 1985, 16.9 percent in 1987, 17.8 percent in 1989 and 18.5 percent in 1991. In comparison with the national average, which was 18.1 percent in 1989 when the last report was available (U. S. Department of Justice, 1992), the Oklahoma average in 1989 was lower, but increased to 18.5 percent in 1991. The increases as shown on the Table are not only in percentage but also by actual number of arrests. Table VIII also shows the total number of arrests for both males and females during this period.

This first objective was also accomplished by examining the total female to male arrests for selected types of offenses during the four year period. For easy analysis, female arrests in these offenses were examined by collapsing them into five offense types--total violent, total nonviolent, total sale and manufacturing of drugs, total possession of drugs, and total drug abuse violations (see Table IX).

Table IX shows an increase in female arrests for 1985, 1987, 1989 and 1991 for all these offense types. Increases in arrests are more evident in nonviolent and drug-related offenses. Both types of

TABLE VIII

NUMBER AND PERCENTAGE OF FEMALE TO MALE ARRESTS, 1985,  
1987, 1989 AND 1991 (PERCENTAGE IN PARENTHESIS)

---

Total Female Arrests	1985	1987	1989	1991
Number of Female Arrests	20916 (15.8)	20054 (16.8)	21155 (17.7)	23013 (18.5)
Total Male-Female Arrests	132765	118953	118942	124129

---

Source: Oklahoma State Bureau of Investigation

TABLE IX

NUMBER AND PERCENTAGE OF FEMALE ARRESTS FOR SELECTED TYPES OF OFFENSES, 1985, 1987, 1989 AND 1991 (PERCENTAGE IN PARENTHESIS)

Category of Offenses	1985	1987	1989	1991
Violent Offense total	5,170 (22.7)	4,952 (23.2)	4,985 (22.7)	5,406 (23.4)
Nonviolent Offense total	5,901 (19.3)	6,326 (20.7)	6,648 (21.5)	7,171 (22.4)
Total Sale and Manufacturing of drugs	380 (18.5)	559 (21.3)	710 (22.5)	534 (21.5)
Drug Possession Totals	1,022 (15.9)	1,090 (18.2)	1,317 (20.7)	998 (19.6)
Drug abuse violations total	1,402 (16.5)	1,649 (19.2)	2,027 (21.3)	1,532 (20.2)
Other	7,041	5,438	5,468	7,372
Total Male and Female	132,765	118,953	118,942	124,129

\* These total Arrests are only on selected types of offenses examined. Percentages are derived from total male-to-female arrests in those selected offenses within the four year period. "Other" total represents female arrests in other offenses not examined.

offenses account for at least three percent increase for these years while violent offenses account for less than a one percent increase. In 1985, a total of 5,170 (22.7%) females were arrested for committing violent offenses. This dropped to 4,952 arrests in 1987, although there was an increase in percentage to 23.2 percent. Again, in 1989, arrests in violent offenses increased to 4,985 (22.7%), reaching 5,406 (23.4%) arrests in 1991. Female arrests for nonviolent offenses increased in both number and percent for these years compared to arrests in any of these offense types. This is not surprising in view of the fact that this is strongly supported in the literature. Literature suggests that nonviolent offenses are traditionally associated with females whereas males are traditionally associated with violent offenses. There are consistent increases in female arrests for nonviolent offenses throughout the period examined. Female arrests for nonviolent offenses rose from 5,901 (19.3%) arrests in 1985 to 7,171 (22.4%) arrests in 1991. This represents 1,270 arrests in nonviolent offenses examined over these four years.

A similar trend appears in drug-related offense types examined. There were increases in both total number and percent arrests of drug-related offenses especially between 1985 and 1989. Some decline occurred in these drug-related offense types in 1991. The number of female arrests for sale and manufacturing of drugs increased from 380 (18.5%) in 1985 to 710 (22.5%) in 1989. However, these arrests declined to 534 (21.5%) in 1991. The number of female arrests for drug possession increased from 1,022 (15.9%) in 1985 to 1,317 (20.7%)

in 1989, but declined to 998 (19.6%) in 1991. Arrests on total drug abuse violations show a similar pattern. Arrests increased from 1,402 (16.5%) in 1985 to 2,027 (21.3%) in 1989. It then decreased to 1,532 (20.2%) in 1991. It was also found that the total percentage of female-to-male arrests in overall drug-related offenses has been on the increase. Results from examining these offenses show that female arrests in drug-related offenses accounted for 19.6 percent of all drug arrests in 1985, 31.8 percent in 1987, 39.8 percent in 1989 and 39.7 percent in 1991.

Below are further analyses (see Tables X, XI, and XII) of female arrests in specific violent, nonviolent and drug-related offenses. The next discussion is on female arrests for specific violent offenses.

#### Female Arrests on Violent Offenses

As indicated in the review of literature section, violent offenses are usually associated with men. Although the number of female arrests have not been comparable to men for these violent offenses, evidence indicates that female arrests for violent offenses show some increases. These increases are shown in the Table X. There is some evidence of increases of female arrests in virtually all violent offenses. In some offenses however, the increases are not steady. Some offenses show increases in percentage while decreasing in the actual number of arrests. This is due to the number of males arrested in these offenses during the time frame in question. Readers must be cautioned that these are percentages of



TABLE X

NUMBER AND PERCENTAGE OF FEMALE ARRESTS IN SELECTED VIOLENT  
OFFENSES, 1985, 1987, 1989 AND 1991 (PERCENTAGE  
IN PARENTHESIS)

Violent Offenses	1985	1987	1989	1991
Murder	25 (12.6)	33 (17.2)	32 (20.8)	18 (16.3)
Manslaughter	2 (7.4)	7 (21.7)	0 0	2 (8.7)
Robbery	62 (8.9)	102 (13.6)	60 (8.9)	74 (10.4)
Aggravated Assault	361 (11.7)	305 (12.2)	336 (11.7)	369 (12)
Burglary	224 (6.1)	244 (6.8)	208 (7.1)	204 (8.1)
Larceny (Theft)	3,727 (39.0)	3,548 (40.0)	3,523 (38.4)	3,826 (40.0)
Auto Theft	115 (10.0)	113 (10.7)	127 (11.2)	110 (13.0)
Other Assaults	626 (14.8)	583 (13.8)	675 (13.0)	770 (15.6)
Arson	28 (15.4)	17 (11.4)	24 (17.0)	33 (11.5)
Total	5,170	4,952	4,985	5,406

females arrested for these offenses, and that these percentages are affected by the number of males arrested for these offenses for the same time period.

In 1985, 25 females were arrested for murder, accounting for 12.6 percent of total male to female arrest. This increased to 33 (17.2%) arrests in 1987. While the actual number of arrests decreased by one in 1989 to 32, it increased by 3.6 percentage points to 20.8 percent. In 1991, the number of females arrested for this offense decreased by almost half, to 18 arrests, but decreased only to 16.3 percent. Manslaughter rose from 2 arrests (7.4%) in 1985 to 7 (21.9%) in 1987. No female was arrested for manslaughter in 1989, but in 1991, there were two arrests representing 8.7 percent. For robbery, there were 62 arrests accounting for 8.9 percent in 1985. This increased to 102 arrests in 1987 accounting for 13.6 percent of those arrested in that year. It however went down to 60 arrests in 1989 which accounted for only 8.9 percent, and up again in 1991 with 74 arrests which accounted for 10.4 percent of those arrested. Female arrests for aggravated assault declined from 361 (11.7%) arrests in 1985 to 305 (12.2%) arrests in 1987. In 1989, it went up to 336 arrests with just 11.7 percent, and up again in 1991 to 369 arrests representing 12.0 percent of those arrested. So, it seems that female arrests in aggravated assaults were on the increase.

Although arrests for aggravated assault may not be stable, female arrests in other assaults appear to be rising. While female arrests in other assaults declined from 626 (14.8%) in 1985, to 583 (13.8%) in 1987, it increased to 675 (13.0%) arrests in 1989 and to

770 (15.6%) in 1991. So, while aggravated assaults may be going down for female arrests, female arrests on other assaults are on the increases. Table X also shows that while the percentage of female arrests in burglary show a rising trend, there is a downward trend in the actual number of female arrests. As indicated earlier, this was a reflection of the number of males arrested for similar offense at the same time period. There were 224 female arrests for burglary in 1985, accounting for 6.1 percent of the total arrests. It increased to 244 arrests in 1987, which was 6.8 percent, and it began to decrease to 208 in 1989 accounting for 7.1 percent and 204 in 1991 accounting for 8.1 percent. There are usually more female arrests in larceny theft than in most of the offenses in violent offense categories. This was found to be the case in this analysis. Female arrests in this offense were not only rising in terms of number and percentage, but also the number of arrests in this offense is usually higher than in any other offense. According the information in Table X, there were 3,727 females arrests accounting for 39 percent of all those arrested for larceny (theft) in 1985. There was a slight decrease in arrests between 1987 and 1989, but arrests picked up for 1991. Females accounted for 40 percent or 3,548 of those arrested for this offense in 1987. In 1989, it declined to 38.4 percent or 3,523 arrests, but increased in 1991 to 3,826 (40%) of those arrested. Females were also arrested for auto theft. In 1985, they were 115 (10%) of the arrest for auto theft. This rose to 127 (11.2%) of arrests for 1989. In 1991, the actual number of arrests decreased to 110 arrests but the percentage for female arrests

increased. As earlier indicated, this may have been affected by the number of males arrested for the same offense.

It was pointed out earlier that there were more female arrests in larceny theft than in any other violent offense in the period examined. Table X also shows that the number of females arrested for arson has generally been increasing. Females represent 15.4 percent of arrests in 1985, but these arrests declined to 17 (11.4%) in 1987. In 1989 and 1991, females accounted for 24 (17.0%) and 33 (11.5%) arrests, respectively, for these years.

#### Female Arrests on Nonviolent

#### Offenses

The next discussion focuses on females arrests in specific nonviolent offenses. The female arrest situation is slightly different in nonviolent offenses. As suggested in the literature section, females tend to be more involved in nonviolent offenses than violent offenses. The literature indicates that females are traditionally associated with nonviolent offenses while males are traditionally associated with violent offenses. That is what appears to be the case in the analysis shown on Table XI. There is a consistent pattern of increase in female arrests in each offense examined over these years. Looking at it from a year to year basis, there is some degree of increase in female arrest in each offense between 1985 and 1987. However, the level of increases differ from offense to offense. In many of these offenses, females accounted for a higher percentage increase than that found in most of the violent

TABLE XI

NUMBER AND PERCENTAGE OF FEMALE ARRESTS IN SELECTED NONVIOLENT  
OFFENSES, 1985, 1987, 1989, AND 1991 (PERCENTAGE  
IN PARENTHESIS)

Nonviolent Offenses	1985	1987	1989	1991
Forgery and Counterfeiting	458 (38.0)	562 (41.3)	347 (38.1)	235 (37.8)
Fraud	538 (36.6)	536 (36.7)	576 (39.4)	745 (41.8)
Embezzlement	152 (31.9)	153 (35.1)	175 (38.2)	181 (34.6)
Stolen property; Buying, Receiving Possessing	256 (15.0)	325 (15.5)	246 (14.5)	210 (15.5)
Vandalism	97 (14.5)	111 (16.5)	99 (15.0)	131 (12.3)
Weapon; Carrying, Possessing etc.	191 (8.2)	198 (9.3)	245 (12.3)	213 (8.6)
Prostitution and Commercialized sex	929 (74.2)	479 (66.3)	258 (62.0)	250 (48.8)
Sex offenses (Except) Rape and Prostitution	36 (4.2)	94 (9.6)	93 (10.1)	106 (10.8)
Gambling Total	19 (10.7)	14 (11.2)	3 (5.9)	10 (17.5)
All other Gambling	16 (10.0)	13 (10.7)	3 (8.5)	2 (7.1)
Offenses against family and children	51 (9.0)	53 (18.7)	75 (16.4)	75 (17.4)
Disorderly Conduct	580 (17.5)	511 (19.6)	566 (20.4)	625 (21.6)
All other Offenses (Except Traffic)	2,578 (15.9)	3,277 (18.7)	3,962 (20.0)	4,388 (21.6)
Total	5,901	6,326	6,648	7,171

offense categories, thus confirming the position suggested in the literature. A higher number as well as percentage of arrests was found in offenses like prostitution. This also supports the view expressed in the literature (Weisheit & Mahan, 1988) that prostitution is a type of offense in which the bias of the criminal process obviously works to the disadvantage of females. Bernat (in Weisheit and Mahan, 1988) pointed out also that women continued to be singled out in the crime that involves more men than females. Although female arrests on prostitution and commercialized sex accounted for a higher percentage, Table X shows that arrests on this offense has been on a downward trend. Female arrests for this offense decreased from 929 (74.4%) in 1985 to 250 (48.8%) in 1991. The question that this kind of trend invokes is what brought about this decline? A possible explanation for these decreases may be that there might have been some political activities or important social events going on during this period that may have led to stronger enforcement of laws against prostitution. Another possible explanation may be that a new political figure who despised prostitution came into power. Whatever may be the case, prostitution was found to be in a consistent decline.

Fraud is another offense with a higher number of female arrests. Female arrests on fraud charges continued to rise for these offenses. Although it slightly declined from 538 (36.6%) arrests in 1985 to 536 (36.7%) in 1987, it rose to 576 (39.4%) in 1989 and reached 754 (41.8%) arrests in 1991. Females arrests for disorderly conduct also increased. There were a total of 580 (17.5%) female

arrests made in 1985. In 1987, it declined in number to 511 but rose in percentage to 19.6 percentage. It increased again to 566 (20.4%) arrests in 1989 and reached 625 (21.6%) arrests in 1991. Forgery and counterfeiting is also high on the list. While the number of arrests increased from 458 (38%) arrests in 1985 to 562 (41.3%) in 1987, it declined to 347 (38.1%) in 1989 and to 235 (37.8%) in 1991. The number of females arrested for Weapon--carrying and possession--has also been on the increase. Although the number of arrests declined to 213 (8.6%) in 1991, it had increased from 191 (8.2%) in 1985 to 245 (12.3%) in 1989. Female arrests for Stolen Property--Buying, Receiving and Possessing--have not been stable. While there were increases from 256 (15%) in 1985 to 325 (15.5%) in 1987, it decreased to 210 (15.5%) arrests in 1991.

Female arrests on Embezzlement are on a rising trend. It has risen from 152 (31.9%) arrests in 1985 to 181 arrests (34.6%) in 1991. Embezzlement is one of the nonviolent offenses where female arrests are observed to maintain an increasing trend. Females arrests in gambling were not only in a decline trend, but also has the lowest number of arrests among the nonviolent offenses. Females arrests on Sex Offenses was small as well, though it is showing an increasing trend. Arrests of females committing Vandalism were also on the rise. All Other Offenses, with the exception of Trafficking, have also increased from 20,916 (15.8%) in 1985 to 23,013 (18.5%) in 1991.

It is pertinent to recall as indicated in the literature section that one of the reasons female arrests are high in some nonviolent

offenses such as Forgery, Fraud, Embezzlement, etc. may be because of open opportunities. These opportunities give females access and exposure to occupations where these types of things occur.

#### Female Arrests on Drug-related

##### Offenses

The last discussion will focus on female's arrests for specific drug-related offenses (see Table XII). Female arrests on drug-related offenses in Oklahoma have been on the rise to the extent that it has become a serious problem for the criminal justice system in Oklahoma. As pointed out in the 1991 reports from the Oklahoma Department of Corrections, it is clear that drug offenses have hit females much harder than males. This research has found that female arrests on drug-related offenses accounted for a very high proportion of total female arrests. The breakdown in Table XII shows an increase in female arrests in all categories of drug offenses for the first two years examined in this study. The drug section is examined in three parts: first, sale and manufacturing of drugs; second, possession of drugs; and third, drinking under the influence and related offenses. It was found that more arrests occurred between 1989 and 1991 in all offenses under sale and manufacturing than between 1985 and 1987. There were a total of 1,244 female arrests between 1989 and 1991, and 939 between 1985 and 1987. From 1989, arrests went down in some offenses such as use of cocaine or opium from 300 (21.5%) in 1989 to 210 (12.2%) in 1991. Arrests for sale and manufacturing of marijuana increased from 223 (15.5%) in 1985 to



TABLE XII

NUMBER AND PERCENTAGE OF FEMALE ARRESTS IN SELECTED DRUG-RELATED  
OFFENSES, 1985, 1987, 1989 AND 1991 (PERCENTAGE  
IN PARENTHESIS)

Drug-related Offenses	1985	1987	1989	1991
<u>Sale and Manufacturing of Drugs</u>				
Opium or Cocaine and Derivatives	92 (23.6)	162 (22.5)	300 (21.5)	201 (12.2)
Marijuana	223 (15.8)	272 (19.2)	261 (21.4)	265 (20.6)
Synthetic Narcotics	31 (24.8)	78 (26.9)	93 (38.0)	38 (30.1)
Other Dangerous Non Narcotics Drug	34 (27.4)	47 (24.0)	56 (28.0)	30 (21.4)
Total Sale and Manufacturing	380 (18.5)	559 (22.5)	710 (22.4)	534 (21.5)
<u>Possession of Drugs</u>				
Opium or Cocaine and Their Derivatives	274 (23.4)	381 (26.7)	540 (28.4)	316 (27.0)
Marijuana	583 (12.7)	528 (14.0)	620 (16.0)	531 (15.7)
Synthetic Narcotics	51 (24.9)	78 (28.6)	83 (26.1)	61 (34.2)
Other Dangerous Non Narcotics Drug	114 (24.6)	103 (20.5)	74 (25.9)	90 (24.8)
Possession Total	1022 (15.9)	1090 (18.2)	1317 (20.7)	1057 (19.6)

TABLE XII (Continued)

Drug-related Offenses	1985	1987	1989	1991
Driving Under the Influence	3575 (12.8)	2862 (13.1)	2524 (12.9)	3429 (14.5)
Drunkenness	4108 (17.5)	3660 (19.6)	3881 (20.6)	4236 (13.1)
Drug Abuse Violations	1402	1649	2027	1532
Grand Total	(16.5)	(19.2)	(21.3)	(20.2)

Source: Oklahoma State Bureau of Investigation

272 (19.2%) in 1987. It declined to 261 (21.4%) in 1989 and increased to 265 (20.6%) in 1991. It was found also that the use of synthetic narcotics declined in 1991 after reaching a high of 93 (38%) in 1989. Other dangerous non-narcotics drugs were also found to be in decline in 1991 after reaching a high of 56 (28.0%) in 1989. Total arrests for sale and manufacturing were found to be increasing while percentage arrest after 1985 remained relatively stable. It initially rose from 380 (18.5%) arrests in 1985 to 710 (22.4%) in 1989, and then declined to 534 (21.5) in 1991. Marijuana was found to be the only drug which maintained an increasing trend in total arrests for 1991 while percentage arrest decreased from 1989.

Female arrests for total possessions of drugs have been on the rise for the first three years examined. It increased from 1,022 (15.9%) in 1985 to 1,317 (20.7%) in 1989, but in 1991, arrests declined to 1,057 which was (19.6%) of the total arrest. Arrests for possession of marijuana rose to 620 (16%) arrests in 1989 from 583 (12.7%) in 1985. It then dropped to 531 (15.7%) arrests in 1991. Arrests for opium or cocaine, and synthetic narcotics were also found to decline in 1991 to 316 (27%) from a high of 540 (28.9%) arrests in 1989.

This research also found that female arrests for driving under the influence and drunkenness accounted for the largest number of all arrests made in drug-related offenses. Driving under the influence alone accounted for both a smaller proportion and number of arrests than drunkenness. Arrests for driving under the influence were found to be highest in 1985, as compared to any other year examined. It

declined from 3,575 (12.8%) in 1985 to 2,524 (12.9%) arrests in 1989. It however increased to 3,429 arrests in 1991 representing 14.5 percent of the total arrests. Arrests on drunkenness were found to have decreased from 4,108 (17.5%) in 1985 to 3,660 (19.6%) in 1985. It began to increase in 1989, reaching 4,236 (13.1%) arrests in 1991. Looking at the total female arrests on drug abuse violations, an increasing pattern was found. It increased from 1,402 (16.5%) in 1985 to 2,027 (21.3%) arrests in 1989. In 1991 however, this was reversed, showing a decline to 1,532 (20.2%) arrests.

Percentage of Female Arrests Data  
for Oklahoma and National

In comparing the percentage of female arrests for Oklahoma and nationally for the four years (see Tables XIII, XIV, and XV), it was found that the percentage of female arrests in Oklahoma is higher than the national percentage in most of the offenses examined. This was found to be the case in violent, nonviolent and drug-related offenses. This high percentage of female arrests may have a direct relationship to the increasing percentage of female incarcerations in the state.

In summation, these findings show that there have been consistent but modest increases in total female arrests over the four years examined. The findings also reveal that the percentage of female arrests in Oklahoma is higher than the national percentage in most of the violent, nonviolent and drug-related offenses analyzed over the four years (see Tables XIII, XIV and XV. This phenomenon

TABLE XIII

COMPARING TOTAL PERCENTAGE OF FEMALE ARRESTS FOR SELECTED VIOLENT  
OFFENSES FOR OKLAHOMA AND NATIONAL, 1985, 1987, 1989 AND 1991

Violent Offenses	1985		1987		1989		1991	
	OK	Nat	OK	Nat	OK	Nat	OK	Nat
Robbery	<u>8.9</u>	<u>7.6</u>	<u>13.6</u>	<u>7.6</u>	<u>8.9</u>	<u>8.6</u>	<u>10.4</u>	<u>8.6</u>
Aggravated Assault	11.7	13.5	<u>12.2</u>	<u>11.9</u>	11.7	13.8	12.0	13.7
Burglary	6.1	7.4	6.8	7.8	7.1	9.0	8.1	8.9
Larceny (Theft)	<u>39.0</u>	<u>31.0</u>	<u>40.0</u>	<u>30.6</u>	<u>38.4</u>	<u>30.9</u>	<u>40.0</u>	<u>32.0</u>
Auto Theft	<u>10.0</u>	<u>9.3</u>	<u>10.7</u>	<u>10.3</u>	<u>11.2</u>	<u>10.1</u>	<u>13.0</u>	<u>10.0</u>
Other Assaults	14.8	15.4	13.8	15.0	13.0	15.7	15.6	16.5
Arson	<u>15.4</u>	<u>13.1</u>	11.4	12.5	<u>17.0</u>	<u>14.0</u>	11.5	13.1

\* OK = Oklahoma and Nat = National

\* Offenses where Oklahoma has higher percentage are underlined

TABLE XIV

PERCENTAGE OF FEMALE ARRESTS FOR OKLAHOMA AND NATIONAL FOR  
NONVIOLENT OFFENSES, 1985, 1987, 1989 AND 1991

Nonviolent Offenses	<u>1985</u>		<u>1987</u>		<u>1989</u>		<u>1991</u>	
	OK	Nat	OK	Nat	OK	Nat	OK	Nat
Forgery and Counterfeiting	<u>38.0</u>	<u>33.2</u>	<u>41.3</u>	<u>34.2</u>	<u>38.1</u>	<u>34.1</u>	<u>37.8</u>	<u>35.0</u>
Fraud	36.6	42.6	36.7	48.6	39.4	43.0	41.8	42.9
Embezzlement	31.9	<u>35.6</u>	<u>35.1</u>	32.9	38.2	41.5	34.6	38.9
Stolen property; Buying, Receiving Possessing	<u>15.0</u>	<u>11.8</u>	<u>15.5</u>	<u>11.3</u>	<u>14.5</u>	<u>11.8</u>	<u>15.5</u>	<u>12.0</u>
Vandalism	<u>14.5</u>	<u>10.0</u>	<u>16.5</u>	<u>10.2</u>	<u>15.0</u>	<u>11.2</u>	<u>12.3</u>	<u>10.9</u>
Weapon; Carrying Possession etc.	<u>8.2</u>	<u>7.6</u>	<u>9.3</u>	<u>6.6</u>	<u>12.3</u>	<u>7.9</u>	<u>8.6</u>	<u>7.2</u>
Prostitution and Commercialized Sex	<u>74.2</u>	<u>69.5</u>	<u>66.3</u>	<u>65.1</u>	62.0	69.3	48.8	65.9
Sex Offenses (Except) Rape & Prostitution	4.2	7.4	<u>9.6</u>	<u>5.6</u>	<u>10.1</u>	<u>8.4</u>	<u>10.8</u>	<u>7.0</u>
Gambling	10.7	14.6	11.2	16.5	5.9	14.2	<u>17.5</u>	<u>12.7</u>
Offenses Against Family & Children	9.0	12.7	<u>18.7</u>	<u>8.9</u>	16.4	24.5	17.4	18.1
Disorderly Conduct	17.5	18.7	<u>19.6</u>	<u>16.3</u>	<u>20.4</u>	<u>18.7</u>	<u>21.6</u>	<u>20.0</u>
All other Offenses (Except Traffic)	<u>15.9</u>	<u>15.6</u>	<u>18.7</u>	<u>15.6</u>	<u>20.0</u>	<u>16.4</u>	<u>21.6</u>	<u>17.1</u>

\* OK = Oklahoma and Nat = National

\* Offenses where Oklahoma has higher percentage are underlined

TABLE XV

PERCENTAGE OF FEMALE ARRESTS FOR OKLAHOMA AND NATIONAL FOR  
 DRUG-RELATED OFFENSES, 1985, 1987, 1989 AND 1991

Drug-related Offenses	1985		1987		1989		1991	
	OK	Nat	OK	Nat	OK	Nat	OK	Nat
Driving Under the Influence	<u>12.8</u>	<u>11.6</u>	<u>13.1</u>	<u>11.3</u>	12.9	12.9	14.5	<u>13.3</u>
Drunkenness	<u>17.5</u>	<u>8.9</u>	<u>19.6</u>	<u>10.1</u>	<u>20.6</u>	<u>9.8</u>	<u>13.1</u>	<u>10.4</u>
Drug Abuse Violations	<u>16.5</u>	<u>13.8</u>	<u>19.2</u>	<u>16.2</u>	<u>21.3</u>	<u>16.1</u>	<u>20.2</u>	<u>16.5</u>

Source: FBI Uniform Crime Report

may have some impact on the high percentage of female incarcerations in the state.

The total female-to-male-arrests increased from 15.8 percent (20,916) in 1985 to 18.5 percent (23,013) in 1991. Also, evidence of increases in female arrests are found in types of offenses (see Table IX), especially between 1985 and 1989. While the total female arrests over these years show an increasing pattern, this trend was not observed in all individual offenses. Only a relatively few offenses show a continuously rising trend (from 1985 through 1991), while others show inconsistent up and down trends. For example, murder rose from 12.6 percent in 1985 to 20 percent in 1989, and then decreased to 16.3 percent in 1991. Arrests for robbery rose from 8.9 percent in 1985 to 13.6 percent in 1987, decreased to 8.9 percent in 1989 and rose slightly to 10.4 percent in 1991. Larceny, which is mostly a female crime shows the same pattern. Larceny rose from 39 percent in 1985 to 40 percent in 1987, down to 38.4 percent in 1989 and slightly up again to 40 percent in 1991. Similar situations are found in nonviolent offenses such as fraud, sex offenses, and disorderly conduct, and all other nonviolent offenses with the exception of traffic are the only ones that show sort of continuous increase in all the four years examined. Prostitution and Commercialized Sex offenses are the only offenses that maintained a consistent decline over these years. Arrests in most of drug-related offenses also show similar up and down trend.

Overall, it has been found that a lot of female arrests occurred in drug-related offenses. As pointed out above, female arrests on



drug-related offenses accounted for a larger proportion of the total female arrests, from 19.6 percent in 1985 to 39.7 percent in 1991. These arrests were found to have occurred more in drunkenness and driving under the influence. While total arrests in sale and manufacturing as well as possessions of drugs show an increasing trend between 1985 and 1989, they all began to show a declining trend in 1991. Driving under the influence arrests declined between 1985 and 1989, but again began to increase in 1991. A similar situation also holds for drunkenness. In 1991, drunkenness declined in percentage but increased in actual number. This is a reflection of the male's arrest situation in drunkenness. Finally, arrests on overall drug abuse violations showed a decline for 1991 after steady increases between 1985 and 1989. However, very few 1991 total arrest categories fell below total arrests for 1985.

The second research objective of this study is to determine if the percentage of female prison receptions have increased for 1985, 1987, 1989, and 1991 for selected offenses. To do this, total female prison receptions over these years were examined in three sections--receptions on violent offenses, nonviolent offenses and drug-related offenses. Available evidence shows that female receptions relative to male's have been on the increase over these four years. As shown in Table XVI, female receptions for these offenses have increased from 270 (7.9%) in 1985 to 784 (12.9%) in 1991. This figure represents an increase of 514 receptions between 1985 and 1991. This shows that total female receptions have been going up. Increases in both the number and percentage of female

TABLE XVI  
NUMBER AND PERCENTAGE OF FEMALE RECEPTIONS,  
1985, 1987, 1989 AND 1991

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Total Female Receptions	1985	1987	1989	1991
Number of Female Receptions	270 (7.9)	511 (9.8)	777 (12.4)	784 (12.9)
Total Male and Female Receptions	3,388	5,212	6,269	6,063

---

receptions were also observed in the types of offenses examined (see Table XVII). Female receptions for violent offense types increased consistently for the four years.

They increased from 114 (6.7%) in 1985 to 264 (10.6%) in 1991. For nonviolent offenses, female reception increased from 98 (16.0%) in 1985 to 202 (20.0%) but then declined slightly to 199 (18.8%) in 1991. Receptions for drug-related offenses were similar to the pattern for violent offenses. Both showed a consistent rising trend. Receptions for drug-related offenses increased from 52 (6.0%) in 1985 to 306 (14.3%) in 1991. An analyses on female receptions for specific violent, nonviolent and drug-related offenses is found in Tables XVIII, XIX, and XX.

#### Female Receptions on Violent Offenses

Tables XVIII shows some increases in female receptions in almost all violent offenses, though the number of receptions and subsequent increases are found to be very small. Burglary I shows a small increase in female receptions in 1985 to 5 receptions in 1991, thereby accounting for 5.3 percent of total receptions. Receptions for Burglary II also increased from 11 (2.2%) in 1985 to 16 (2.0%) in 1989, then dropped to 13 (2.0%) in 1991. More receptions occurred in larceny than in any of the other violent offenses. It increased from 57 (12.0%) receptions in 1985 to 170 receptions in 1991, accounting for 18.3% of total receptions for that offense. Receptions on Murder I decreased from 6 (9.8%) in 1985 to 4 (6.6%) in 1987. They reversed to 6 (10.1%) again in 1989 and reached 11 (13.7%) in 1991.

TABLE XVII

NUMBER AND PERCENTAGE OF FEMALE RECEPTIONS FOR TYPES OF  
OFFENSES, 1985, 1987, 1989 AND 1991

Category of Offenses	1985	1987	1989	1991
Violent Offense total	114 (6.7)	205 (8.4)	250 (9.3)	264 (10.6)
Nonviolent Offense total	98 (16.0)	135 (15.9)	202 (20.0)	199 (18.8)
Drug-related Offense total	52 (6.0)	159 (10.0)	299 (13.5)	306 (14.3)
Other	6	9	26	15
<b>Total</b>	<b>3,388</b>	<b>5,212</b>	<b>6,269</b>	<b>6,063</b>

TABLE XVIII

NUMBER AND PERCENTAGE OF FEMALE TO MALE RECEPTIONS IN SELECTED  
VIOLENT OFFENSES, 1985, 1987, 1989 AND 1991  
(PERCENTAGE IN PARENTHESIS)

Offenses--- Percent In:	1985	1987	1989	1991
Burglary 1	0 (0.0)	3 (3.8)	3 (3.0)	5 (5.3)
Burglary 11	11 (2.2)	15 (2.1)	16 (2.0)	13 (2.0)
Larceny	57 (12.0)	136 (16.2)	161 (15.8)	170 (18.3)
Murder 1	6 (9.8)	4 (6.6)	6 (10.1)	11 (13.7)
Murder 11	2 (5.8)	5 (14.2)	7 (21.2)	3 (7.1)
Manslaughter	8 (14.5)	12 (19.6)	11 (15.7)	11 (12.5)
Robbery	11 (3.6)	17 (5.6)	23 (7.2)	23 (8.0)
Assault	9 (6.0)	9 (4.9)	9 (3.9)	12 (4.8)
Arson	0 (0.0)	2 (4.8)	4 (12.0)	4 (8.0)
Kidnapping	1 (5.5)	1 (4.0)	0.0 (0.0)	2 (16.6)
Other Violent Offenses	9 (22.5)	4 (10.8)	10 (19.2)	10 (19.2)
Total Female Receptions	114	205	250	264

Receptions for Murder 11 increased from 2 (5.8%) in 1985 to 7 (21.2%) in 1989, then dropped to 3 (7.1%) receptions in 1991. Receptions for Manslaughter increased from 8 (14.5%) in 1985 to 12 (19.6%) in 1987, and then leveled off to 11 (3.6%) in 1989 and 1991. Receptions for Robbery showed an increasing trend, rising from 11 (3.6%) in 1985 to 23 (8.0%) in 1991. Receptions for assault leveled off at 9 for 1985, 1987, and 1989, then increased to 12 (4.8%) in 1991. There were no female receptions for Arson in 1985, though 2 were received in 1987 and 4 each in 1989 and 1991. Receptions in other Violent Offenses declined from 9 (22.5%) in 1985 to 4 (10.8%) in 1987, then increased to 10 (19.2%) receptions each in 1989 and 1991 respectively.

#### Female Receptions on Nonviolent

#### Offenses

As expected, there were more female receptions in nonviolent offenses than violent offenses (see Table XIX). Table XIX shows some increases in almost all offenses with the exception of gambling, where there were no female receptions, and sex offenses, where there were relatively few receptions. Receptions for bogus check-card show a consistent increase, from 27 (23.8%) in 1985 to 66 (46.4%) in 1991. The three offenses of forgery, fraud and embezzlement also show similar increasing trends, though they all began to decline in 1991. Other nonviolent offenses continue to show an increasing pattern over the four year period.

TABLE XIX

NUMBER AND PERCENTAGE OF FEMALE TO MALE RECEPTIONS IN SELECTED  
NONVIOLENT OFFENSES, 1985, 1987, 1989 AND 1991  
(PERCENTAGE IN PARENTHESIS)

Offenses Receptions in %	1985	1987	1989	1991
Bogus Check-Card	27 (23.8)	31 (26.0)	33 (32.3)	66 (46.4)
Forgery	38 (24.8)	48 (21.6)	76 (30.0)	50 (22.8)
Fraud	7 (26.9)	11 (17.1)	37 (27.0)	32 (34.7)
Embezzlement	14 (25.0)	17 (20.4)	28 (31.4)	19 (29.2)
Sex	1 (0.6)	4 (2.1)	5 (2.6)	2 (0.9)
Weapons	4 (5.2)	9 (6.6)	11 (7.6)	10 (5.7)
Gambling	0	0	0	0
Other Non Violent	7 (16.6)	15 (16.8)	12 (9.8)	20 (12.3)
Total Receptions	98	135	202	199

### Female Receptions on Drug-related Offenses

The last discussion focuses on female receptions in specific drug-related offenses (see Table XX). According to several sources, drugs and drug related offenses are drastically increasing the number of female receptions at both the national and state levels. According to the U. S. Department of Justice, Federal Prison Journal (1992, 34), almost 64 percent of females in 1991 were serving time on drug-related offenses, most commonly for the manufacture and distribution of illegal drugs. Oklahoma is also experiencing a similar high number of female receptions for drug-related offenses. The 1991 reports from the Oklahoma State Department of Corrections indicated that most females are incarcerated for drug-related crimes and crimes related to theft. The report pointed out that in 1980, 10% of all female receptions were drug related while in 1990, 37 percent of all female receptions were drug related. Mecoy (1991) pointed out that during the fiscal year 1990, drug-related crimes for first-time offenders accounted for the imprisonment of more females than any other category, narrowly eclipsing larceny/fraud. He stated that while about one out of every four inmates in the state's prisons were convicted of a drug-related offense, among women the rate is more than one in three.

While female receptions for drug-related offenses in Oklahoma are far fewer than male's receptions, this study found that total female receptions for drug-related offenses have increased from 52 in 1985 to 306 in 1991. Receptions for second offense DUI increased from 11 (2.4%) in 1985 to 29 (3.6%) in 1989 then declined to 25



TABLE XX

NUMBER AND PERCENTAGE OF FEMALE TO MALE RECEPTIONS IN DRUG-RELATED  
OFFENSES, 1985, 1987, 1989 AND 1991  
(PERCENTAGE IN PARENTHESIS)

Offenses Receptions in %	1985	1987	1989	1991
DUI-2ND	11 (2.4)	25 (3.6)	29 (4.5)	25 (3.3)
Possession/OBT Drugs	19 (11.1)	73 (17.2)	126 (20.0)	99 (20.2)
Distribution of Drugs	22 (9.2)	61 (12.6)	142 (15.3)	171 (20.7)
Drug Trafficking	0 0	0 0	2 (20.0)	11 (14.4)
Total Receptions	52	159	299	306

Source: Oklahoma Department of Corrections

(3.3%) in 1991. Female receptions for drug possession increased from 19 (11.1%) in 1985 to 126 (20.0%) in 1989, then decreased to 99 (20.2%) in 1991. Female receptions for drug distribution was the only offense that shows a consistent increase throughout the years examined. It rose from 22 (9.2%) in 1985 to 171 (20.7%) in 1991. There were no female receptions for drug trafficking in 1985 and 1987. However, 2 and 11 females were received on drug trafficking in 1989 and 1991, respectively.

In summation, these findings indicate that total female receptions relative to male's receptions over these years show an increasing pattern. It shows that female receptions increased from 7.9 percent in 1985 to 12.9 percent in 1991. Total receptions for violent offenses consistently increased over these years, whereas total receptions for nonviolent offenses increased from 1985 to 1989, and then declined in 1991. Total receptions for drug-related offenses also showed an increasing trend for these years. Receptions in offenses such as murder, larceny, and robbery show fluctuating trends for these years. The only three offenses in the nonviolent section that show a consistent increasing pattern over these years are bogus check-card, fraud, and embezzlement.

The third objective of this study is to determine if the percentage of female total arrests relate to the percentage of female total inmate receptions during the period examined. In order to accomplish this objective, total percentages of arrests and receptions were compared for possible relationships. Results show that both female arrests and receptions increased over the years examined. As expected however, there were more arrests than

receptions. This is the result of the funnelling process that affects the number of offenders as they are processed further into the criminal justice system. Ghali and Chesney-Lind (1986) pointed out that only a smaller proportion of those arrested comprise the prison population. A similar assertion was made by Bowker (1978). It was expected that the number of female arrests would be much more than the number of receptions. What was not expected, however, was that the percentage of receptions in Oklahoma surpassing that of the national average of 9.3 percent in 1989 (Jail Inmates Report, U. S. Department of Justice, 1992). This study also found that while the total percentage of female arrests nationally was 18.1 percent in 1989 when the last record was available, total female arrests in Oklahoma for that same year was 17.7 percent, slightly lower than the national average.

In summation, overall, while both total percentage of female offenders' arrests and receptions show an increasing trend over these years, the total percentage of arrests was much higher than the total percentage of receptions (see Table XXI). This shows no kind of relationship between arrests and receptions except that both increased.

The fourth research objective in this study was to determine if females get longer or shorter sentences than males convicted for similar offenses. In order to do this, a simple Analysis of Variance was applied to compare the average sentence length of both male and female offenders. As pointed out earlier, sentence length in this data set ranges from .00 years to 2005.18 years. However, since those serving a sentence length of between .00 years to 60 years

TABLE XXI

PERCENTAGE OF FEMALE-TO-MALE ARRESTS AND RECEPTIONS  
1985, 1987, 1989 AND 1991

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Total Arrests and Receptions	1985	1987	1989	1991
Percentage Total Arrests	15.8	16.8	17.7	18.5
Percentage Total Receptions	7.9	9.8	12.4	12.9

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Sources: Oklahoma State Department of Corrections and Oklahoma State  
Bureau of Investigation

comprise 98.0 percent of all sentence lengths, this analysis was focused on these years. A separate analysis was also made on the remaining 1.8 percent (sentence length 61 years to 2005.18 years), which includes life, life without parole and death. A chi-square statistical procedure was applied to determine the proportions of males and females who received life, life without parole or death sentences as a result of convictions on any of these selected offenses analyzed.

The purpose of this analysis was to find out if female offenders in Oklahoma were getting longer, shorter, or the same sentences as men convicted for same offenses. This may help shed some light on the increasing percentage of female inmates in Oklahoma prisons. It will also help to determine if differential treatment against female offenders exists in the criminal justice agencies in Oklahoma. This analysis was again carried out in three sections--violent, nonviolent and drug-related offenses--and comparison was based on differences in the average sentence length. The significance level was based on the significant f-value at the .05 level.

#### Differences in Sentence Length for Violent Offenses

For all the 11 violent offenses examined, male offenders received an average longer sentence for all offenses except manslaughter. Significant differences were found in four of 11 offenses. Male offenders an average longer sentence on the total sentence length as shown in Table XXII. Male offenders received overall average sentences of 5.67 years compared to 4.60 years for

TABLE XXII

SENTENCE LENGTH MEANS FOR MALE AND FEMALE OFFENDERS SENTENCED FROM  
.00 YEARS TO 60 YEARS, 1985, 1987, 1989 and 1991

Offenses	Means		F-Value	P-Value
	Males	Female		
1. Burglary 1	8.54 N=319	6.68 N=11	0.07	0.40
2. Burglary 11	4.88 N=2536	4.83 N=55	0.00	0.94
3. Murder 1	14.23 N=13	8.14 N=10	1.38	0.25
4. Murder 11	25.87 N=98	16.35 N=14	7.91*	0.00
5. Manslaughter	11.50 N=218	12.23 N=42	0.18	0.67
6. Robbery	12.04 N=1101	8.01 N=74	10.82*	0.00
7. Assault	6.21 N=749	3.68 N=39	4.74*	0.02
8. Larceny	4.46 N=2820	4.01 N=524	3.67*	0.05
9. Arson	6.95 N=129	4.00 N=10	1.59	0.20
10. Kidnapping	14.34 N=62	9.25 N=4	0.78	0.38
11. Other Violent	6.72 N=145	4.89 N=32	1.50	0.22
Total offense	5.67 N=18175	4.60 N=2318	52.71*	0.00

\*Significance F-value at the .05 level

female offenders. This difference was statistically significant at the .05 level and indicates that male offenders are actually sentenced longer than female offenders convicted for similar offenses. While previous findings on this subject have been contradictory (Spohn, Welch, Gruhl, 1985), this finding is supported in that literature suggests that female offenders are getting shorter sentences as compared to male offenders.

Some offenses however show males having longer sentences than females, but these were not found to be statistically significant; nor was any statistical significance found for the average sentence length in the only offense, manslaughter, where females got longer sentences than males. Murder 11 is one of the violent offenses where a significant difference between male and female sentence length was found. It was found that the average sentence length for males convicted for Murder 11 was 25.87 years, while for females it was 16.35. This study also found a significant difference in sentence length of males and females convicted for robbery. The average sentence length for males was 12.04 years while it was 8.01 for females. The difference in sentence length between males and females convicted for assault was also found to be statistically significant with female offenders being lower. It shows males with 6.21 years average sentence length and females with 3.68 years. Differences in sentence length between males and females convicted on larceny was not high but the difference was significant. This is because there are more arrests and receptions of females in larceny than in perhaps any other offense category with the possible exception of drug-related offenses. At any rate, male offenders were

still sentenced longer than females. Although the difference is not too high--4.46 for males and 4.01 for males--the difference was still found to be statistically significant.

While no other offense among violent offenses was found to be significant for sentence length between male and female offenders, all offenses, with the exception of manslaughter showed males receiving longer sentence than females. In some of them, sentence lengths are very slight. For others, such as Murder 1, difference appears high--14.23 for males and 8.14 for females-- but it was not significant. Female offenders convicted for manslaughter appear to have longer sentences than males with 11.50 and 12.23, respectively.

#### Differences in Sentence Length for Nonviolent Offenses

The next discussion will discuss differences in sentence length between male and female offenders convicted for nonviolent offenses. The literature points out that females are traditionally associated more with nonviolent than violent offenses. If that is the case, it would be expected that perhaps more females are not only incarcerated for nonviolent offenses, but also incarcerated longer. This was not necessarily found to be the case in the offenses analyzed. As indicated in Table XXIII, of the seven nonviolent offenses examined, male offenders received a longer average sentence in four offenses and females received longer sentences in the three other offenses. Significant difference was found in two of the offenses (forgery and fraud) where males received longer sentences.



TABLE XXIII

COMPARING DIFFERENCES IN SENTENCE LENGTH BETWEEN MALE AND FEMALE  
OFFENDERS SENTENCED FROM .00 TO 60 YEARS ON NONVIOLENT  
OFFENSES, 1985, 1987, 1989 and 1991

Offenses	Means		F-Values	P-Value
	Males	Females		
Bogus Check-Card	3.65 (N=318)	4.07 (N=157)	1.01	0.31
Forgery	5.16 (N=634)	3.99 (N=211)	8.33*	0.00
Fraud	4.65 (N=232)	3.09 (N=87)	9.76*	0.00
Embezzlement	3.92 (N=215)	4.69 (N=78)	1.26	0.26
Sex	7.46 (N=696)	8.95 (N=12)	0.51	0.47
Weapons	4.83 (N=494)	4.30 (N=34)	0.33	0.56
Other Non Violent	6.72 (N=145)	4.89 (N=32)	1.50	0.22

\*Significance F-value at the .05 level

The average sentence length for male offenders was longer for the following offenses: forgery, fraud, weapons, and other nonviolent offenses. A significance difference was found only for forgery and fraud. Female offenders were sentenced longer for the following: offenses-embezzlement, sex and bogus check-card offenses; but none of these differences were found to be significant. Male offenders convicted for forgery had 5.16 years average sentence length as compared with 3.99 for females. On fraud, male offenders had 4.65 and females had 3.09 years. These are the only two offenses among nonviolent offenses with significant differences. Female offenders convicted for bogus-check-card received an average higher sentence length of 4.07 years compared with 3.65 years for male offenders. Also, female offenders convicted on embezzlement received an average sentence length of 4.69 years which was higher than 3.92 years for males. A similar situation was also found in sex offenses where the average sentence length for female offenders was longer--8.95 years--whereas male offenders received 7.46 years. Although females were sentenced longer than male offenders for these three offenses, their differences were not significant.

Despite the fact that there was no significance difference in their sentence length, it still raises a question of why females are sentenced longer than males in sex offenses. As pointed out in the literature, sex offenses, e.g. prostitution, is a type of offense where the bias of the criminal justice process obviously works to the disadvantage of females (Weisheit and Mahan, 1988). Bernat (in Weisheit and Mahan, 1988) also argues that women continue to be

singled out in a crime that involves more males than females. And as shown on Table XXIII, 696 males were serving prison terms on sex offenses during the period examined as compared to 12 females. What could then account for the longer sentences given to female offenders? Some have argued that it is a way of enforcing female sex-role expectations. Bowker (1978) argues that obviously the law punishes females who engage in sex offenses. Male offenders appear to be receiving longer sentences in weapon and other nonviolent offenses, although neither difference is significant.

#### Differences in Sentence Length for Drug-related Offenses

The next discussion will focus on comparing sentence lengths of male and female offenders convicted on drugs and drug related offenses. Drugs and drug-related offenses are areas of offenses where it is expected that female offenders may either have a longer sentence, or have a comparable sentence length with the males. As pointed out earlier, 37 percent of the Oklahoma inmate population are females serving prison sentences on drug-related offenses. This study found that females accounted for about 12 percent of Oklahoma inmate population who were received for the four categories of drug-related offenses. Table XXIV shows that most of the drug receptions were for distribution and possession offenses. It shows also that out of the four drug-related offenses examined, male offenders were sentenced longer in all four drug-related offenses and

TABLE XXIV

COMPARING DIFFERENCES IN SENTENCE LENGTH BETWEEN MALE AND FEMALE  
OFFENDERS SENTENCED FROM .00 TO 60 YEARS FOR DRUG-RELATED  
OFFENSES, 1985, 1987, 1989 AND 1991

Offenses	Means		F-Value	P-Value
	Males	Females		
DUI-2ND	2.28 (N=2445)	1.94 (N=90)	5.85*	0.01
Possession	5.03 (N=1384)	4.01 (N=317)	10.26*	0.00
Distribution	6.13 (N=2064)	5.42 (N=395)	4.33*	0.03
Drug Trafficking	14.12 (N=70)	8.75 (N=12)	3.46	0.06

\*Significance F-value at the .05 level

significance difference was found for all three of the four, with the exception of drug trafficking.

The average sentence length for second offense DUI males was 2.28 years and for females it was 1.94 years. The average sentence length for males convicted for possession charges was 5.03 years whereas for females it was 4.01. Males convicted for distribution of drugs received an average sentence length of 6.13 years compared to 5.42 years for females. Although the differences between the sentence length of males and females convicted for drug trafficking was not statistically significant, males still received longer sentences. Table XXIV shows that the average sentence length for males was 14.12 years whereas for females it was 8.75 years. The fact that there is no significant differences in their sentences is surprising in view of that fact that drug offenses are usually perceived as male offenses. It might be expected that judges would be harder on females for deviating from traditional expected behavior by being convicted for serious criminal offenses.

#### Proportions of Male to Female Offenders

##### Sentenced to Life, Life Without

##### Parole and Death

In order to determine how judges used other types of sentence length--life, life without parole and death on male and female offenders, a Chi-square statistical procedure was applied to determine the proportions of male and female offenders who were sentenced upon convictions for each of these offenses. Table XXV

TABLE XXV

PROPORTIONS OF MALE AND FEMALE OFFENDERS SENTENCED TO LIFE, LIFE  
WITHOUT PAROLE AND DEATH, 1985, 1987, 1989 AND 1991

Offenses	Males			Females		
	Life	Death	LWOP	Life	Death	LWOP
Burglary 1	1	0	0	0	0	0
Burglary 11	2	0	0	0	0	0
Murder 1	140	31	49	10	4	3
Murder 11	22	0	0	3	0	0
Manslaughter	4	0	0	0	0	0
Larceny	2	0	0	0	0	0
Robbery	12	0	2	0	0	0
Assault	6	0	0	0	0	0
Arson	0	0	0	0	0	0
Kidnapping	2	0	1	0	0	0
Other Violent	0	0	0	0	0	0
Bogus-Check	0	0	0	0	0	0
Forgery	1	0	0	1	0	0
Fraud	0	0	0	0	0	0
Embezzlement	0	0	0	0	0	0
Sex	1	1	1	0	0	0
Weapons	1	0	0	0	0	0
Other Non Violent	2	0	0	0	0	0
DUI-2ND	1	0	0	0	0	0
Possession of Drugs	4	0	0	0	0	0

TABLE XXV (Continued)

Offenses	Males			Females		
	Life	Death	LWOP	Life	Death	LWOP
Distribution of Drugs	1	0	0	0	0	0
Drug Trafficking	1	1	0	1	0	0

shows that male offenders are disproportionately sentenced in these offenses than are females, and are proportionally more. Male's receptions for these offenses greatly outnumber female's receptions. Sentences of the female receptions occurred for Murder 1. Yet, a relatively few or no females convicted on these offenses were sentenced to either life, life without parole or death. This perhaps, demonstrates the fact that in most cases females are recipients of preferential treatment from the courts.

Specifically, while both males and females have been convicted on Burglary 1 and 11 as previously shown, only male offenders were given a life sentence. Both males and females received life, life without parole and death on murder 1 convictions. Both also received a life sentence for Murder 11 convictions. No female offender received any of these sentences on manslaughter even though as previously shown, female offenders convicted on manslaughter received longer sentence than male offenders. Also, only male offenders were sentenced to a life sentence for larceny, robbery, assault, kidnapping, other violent offenses, and bogus check-card convictions. Only male offenders got a life without parole sentence for robber and kidnapping convictions. One female and one male offender received a life sentence on forgery convictions. Only males received life, life without parole and death sentences for sex convictions, and a life sentence for weapons and other nonviolent offense convictions. Finally, while only male offenders got a life sentence on all the four drug-related offenses, only one female was given a life sentence for a drug trafficking conviction.



The question that might be asked as a result of these findings is why do only few female offenders receive these types of sentences--life, life without parole and death? This kind of question is very logical and appropriate in view of the fact that there were female arrests and convictions in each of those offenses as shown earlier. While the number of female arrests and receptions for those offenses were far fewer than the males, would that take away the intensity and seriousness of the offense they committed? Perhaps the only logical explanation, as suggested in the literature, is that these females were given preferential treatment.

In summation, based on the evidence presented above, female offenders did not appear to be getting longer sentences than their male counterparts. In fact, for the 11 violent offenses examined (in Table XXII), males received an average longer sentence for all offenses except manslaughter. Furthermore, it was found that four of these offenses were significant. Female offenders only got a longer sentence for manslaughter convictions than their male counterparts. Also, of the seven nonviolent offenses examined (in Table XXIII), male offenders got longer sentences in four offenses and female offenders received longer sentences in three. Of the four offenses analyzed in the drug-related section (in Table XXIV), male offenders were found to have been sentenced longer in all offenses, and three were statistical significant. Of the proportions of male and female offenders who received life, life without parole and death, male offenders disproportionately received these sentences more often than did female offenders. Evidence shows that many more male offenders

got life, life without parole and death in almost all these offenses than female offenders. Based on these findings, it may be concluded that female offenders examined in this study did not get punitive sentencing. Male offenders were sentenced longer and female offenders sentenced shorter in most of the offenses analyzed.

The fifth research objective of this study was to determine if female first, second, and third offenders receive more severe sentences than male first, second and third offenders. Most of the evidence presented appears to agree with the literature which suggests that female offenders are recipients of preferential treatment from the criminal justice system. If any evidence would be found to support the contrary, such evidence could be found in no other way than in this research objective. The need to control for past criminality was thought as another way of determining a possible differential treatment against females who have previously engaged in criminal activities. This analysis was again based on male and female offenders sentenced from .00 years to 60 years, and again the statistical significance f-value used was .05 level.

Some of the literature suggests that female offenders under no control situations are recipients of preferential treatment. Although the methodologies used to arrive at such conclusions have been severely criticized, there is something in the nature of being female that helps them enjoy lenient treatment when a variable such as prior record was not taken into account. This argument suggests that if prior offense of both males and females were taken into account, the advantage enjoyed by females would disappear. Furthermore, under those circumstances, females would not only get

the same sentences as males, but perhaps longer sentences as a punishment for continued violation of their sex roles.

Differences in Sentence Length on Three  
Levels of Recidivism for  
Violent Offenses

This study considers this argument by looking at the effects of recidivism on sentence length between male and female offenders. Table XXVI shows that first-time male offenders got an average longer sentence in nine of the 11 violent offenses, whereas females received an average longer sentences in only two. Of the nine offenses where males got an average longer sentence, only three were found to be significantly different. No significant difference was found in the two offenses where females got average longer sentences. For second-time offenders, male offenders received an average longer sentence in nine of the 11 violent offenses, whereas females got an average longer sentence in two. For third-time violent offenders, male offenders received average longer sentence for ten offenses, whereas females received average longer sentences for only one offense. Female offenders were found to receive average longer sentences for first-and second-time convictions on manslaughter, and second-and third-time convictions on larceny. Male offenders were sentenced longer for all offenses and levels of recidivism except for the three mentioned above. Male offenders convicted for Burglary 1 consistently received longer sentences on all levels of recidivism than did females. It was also found that average sentence length for

TABLE XXVI

COMPARING DIFFERENCES IN SENTENCE LENGTH BETWEEN MALE AND FEMALE  
OFFENDERS FOR VIOLENT OFFENSES ON THREE LEVELS  
OF RECIDIVISM, 1985, 1987, 1989 AND 1991

Offenses	Levels of Recidivism	Means				F-Va	P-Va
		Male		Female			
		N=	Means	N=	Means		
Burglary 1	1st	N=206	7.66	N=9	6.17	2.14	0.06
	2nd	N=82	9.74	N=1	8.00	0.05	0.81
	3rd	N=31	11.20	N=1	10.00	0.02	0.89
Burglary 11	1st	N=1729	3.85	N=39	4.64	1.13	0.28
	2nd	N=583	6.67	N=13	5.07	0.89	0.34
	3rd	N=224	8.21	N=3	6.33	0.22	0.63
Murder 1	1st	N=10	14.20	N=10	8.14	0.13	0.26
	2nd	N=3	14.33	None			
	3rd	none		None			
Murder 11	1st	N=71	24.85	N=12	16.33	5.30*	0.02
	2nd	N=23	28.06	N=2	16.50	1.78	0.19
	3rd	N=3	31.25	None	None		
Manslaughter	1st	N=182	10.81	N=35	10.91	0.00	0.95
	2nd	N=28	17.40	N=7	18.85	0.08	0.78
	3rd	N=8	6.43	None			
Robbery	1st	N=727	10.93	N=52	7.65	5.46*	0.01
	2nd	N=280	14.21	N=16	9.31	3.05	0.08
	3rd	N=94	14.23	N=6	7.66	2.27	0.13
Assault	1st	N=564	5.61	N=33	3.81	2.36	0.12
	2nd	N=141	7.83	N=5	3.00	1.62	0.20
	3rd	N=44	8.70	N=1	3.00	0.48	0.49
Larceny	1st	N=1924	3.57	N=384	3.03	5.69*	0.01
	2nd	N=610	5.88	N=92	6.16	0.18	0.67
	3rd	N=286	7.35	N=48	7.66	0.11	0.73
Arson	1st	N=100	6.13	N=10	4.00	1.23	0.26
	2nd	N= 22	11.12	None			
	3rd	N= 7	5.50	None			
Kidnapping	1st	N=47	12.26	N=4	9.25	0.37	0.54
	2nd	N=13	18.30	None			
	3rd	N=2	37.50	None			

TABLE XXVI (Continued)

Offenses	Levels of Recidivism	Means				F-Va	P-Va
		Male		Female			
		N=	Means	N=	Means		
Other Violent	1st	N=112	6.37	N=27	5.09	0.61	0.43
	2nd	N= 25	7.88	N= 4	3.50	0.92	0.34
	3rd	N= 8	8.00	N= 1	5.00	0.25	0.63

\*Significance F-Value at the .05 level

both male and female offenders continued to increase as they received their first, second and third convictions. While male offenders were found to have longer sentences than females offenders for Burglary 1, the difference was not significant. For Burglary 11, the average sentence length for first-time female offenders was higher than for males. Second-and third-time Burglary 11 males received average longer sentences than female second-and third-time offenders. It must be added that like Burglary 1, the sentence length for both males and females increased as they received more convictions for these offenses.

There were no female receptions for second-and third-time offenders for Murder 1, and no third-time offenders for Murder 11. No comparisons were made for those. However, for first-time Murder 1, and first-and second-time Murder 11 male offenders consistently received longer sentences for those offenses. A significant difference was found for first offense for Murder 11. While the average sentence length for males was 24.85 years, for females it was 16.33. This study also found that for first and second manslaughter offenses, females received average longer sentences than males. Female offenders convicted of a first-time offense received an average sentence length of 10.91 years whereas males got 10.81 years. On the second conviction, females received 18.85 years while males got 17.40 years. Manslaughter is one of the few violent offenses where female offenders were sentenced longer than males.

Also, male offenders convicted for robbery got longer average sentences on all levels of recidivism. The average sentence length

for male first-time offenders was 10.93 years and for females it was 7.65 years. The difference for robbery was found to be statistically significant. Male offenders convicted on assault charges also received an average longer sentence than their female counterparts. Although male offenders consistently received an average longer sentence on all levels of recidivism, differences in their sentence length were not found to be statistically significant. Female offenders convicted for second and third larceny offense received an average longer sentence than their male counterparts. For a first offense however, males received an average longer sentence than females. This difference was significant. The average sentence length in years for males was 3.57 while for females it was 3.03. For second and third offenses however, female received longer sentences. There were no female receptions for second and third convictions for arson. Females convicted for a first offense on arson received a shorter average sentence than their male counterparts. A similar situation also exists for offenders convicted of kidnapping. Though males received an average longer sentence for both offenses for first-time offenders, neither of these offenses were found to be statistically significant. For other violent offenses, male offenders consistently received an average longer sentence than females for each level of recidivism. The differences for other violent were not significant.

Differences on Three Levels of Recidivism  
for Nonviolent Offenses

The next analysis focused on nonviolent offenses. The literature review suggests that nonviolent offenses are traditionally associated with females. Analysis on arrest records indicate that more females are arrested for nonviolent offenses than violent offenses. Likewise, there are usually more female receptions in prisons for nonviolent offenses than on violent offenses. That evidently supports the assertion that nonviolent offenses are traditionally associated with females. In view of that, it may not be terribly surprising to find females getting longer sentences for nonviolent offenses.

This was found to be the case for most offenses. Table XXVII shows that male offenders received an average longer sentence than females for most nonviolent offenses. There are 19 levels of recidivism examined for the seven nonviolent offenses where comparisons were made. This excludes second and third levels for sex offenses where there were no female receptions. For the 19 levels of recidivism, males received an average longer sentence in all but eight, and significance was found in two. Females convicted of first, second and third-time bogus check-card charges got an average longer sentence than males. There was, however, no statistical significance between their differences. The average sentence length from first through third offense continued to increase whereas the average sentence length for convictions remained relatively lower and stable. Males convicted on forgery got average longer sentences for



TABLE XXVII

COMPARING DIFFERENCES IN SENTENCE LENGTH BETWEEN MALE AND FEMALE  
OFFENDERS FOR NONVIOLENT OFFENSES ON THREE LEVELS OF  
RECIDIVISM, 1985, 1987, 1989 AND 1991

Offenses	Levels of Recidivism	Means				F-Va	P-Va
		Male		Female			
		N=	Means	N=	Means		
Bogus Check-card	1st	N=237	3.50	N=123	3.66	0.11	0.73
	2nd	N= 65	3.92	N= 25	5.06	1.12	0.29
	3rd	N= 16	4.75	N= 9	6.94	1.71	0.20
Forgery	1st	N=416	4.17	N=157	3.26	5.00*	0.02
	2nd	N=146	6.67	N= 40	5.99	0.46	0.49
	3rd	N= 72	7.82	N= 14	6.50	0.46	0.50
Fraud	1st	N=157	3.84	N=74	2.90	3.77*	0.05
	2nd	N= 40	6.82	N=11	4.13	2.86	0.09
	3rd	N= 35	5.81	N= 2	4.39	0.15	0.69
Embezzlement	1st	N=157	3.47	N=65	4.35	1.62	0.20
	2nd	N= 47	4.85	N=11	4.81	0.00	0.98
	3rd	N= 11	6.45	N= 2	15.00	7.78*	0.07
Sex	1st	N=597	7.05	N=12	8.95	0.95	0.32
	2nd	N= 80	9.67	N=0	0.00		
	3rd	N= 19	11.22	N=0	0.00		
Weapons	1st	N=318	4.31	N=24	4.47	0.03	0.87
	2nd	N=131	6.30	N= 9	4.11	0.88	0.35
	3rd	N= 45	4.22	N= 1	2.00	0.64	0.42
Other Non Violent	1st	N=263	3.85	N=43	4.17	0.17	0.67
	2nd	N= 73	6.67	N=10	4.79	0.53	0.46
	3rd	N= 21	8.68	N= 1	2.00	0.49	0.49

\*Significance at the .05 level

all levels of recidivism. However, only first offense difference was found to be significant. A similar result was also found in fraud. The average sentence length for males was longer than females in all levels of recidivism, but only the difference for first offense was found to be significant.

This analysis also shows female offenders who received first and third convictions for embezzlement got longer sentences than their male counterparts. However, significance difference was found only for third conviction where males and females received an average sentence length of 6.45 and 15.00 years, respectively. Perhaps the reason for an average longer sentence for females may not necessarily result from their repeat offense, but perhaps due to the intensity and worth of whatever that was embezzled.

While there were no female receptions for second and third Sex repeat offenses, females convicted for this first time sex offense got longer sentences than their male counterparts. The average sentence length for females convicted for a first-time sex offense was 8.95 years compared to 7.05 years for males. This difference was not statistically significant. Female offenders received slightly longer average sentence lengths on first convictions for weapons offenses, whereas males received longer sentences on second and third convictions. Similarly, females received an average longer sentence on first convictions for other nonviolent offenses, while males received longer average sentences for second and third convictions. Neither of these recidivism levels were found to have statistical significance.

Differences in Sentence Length for  
Drug-related Offenses

The next discussion will focus on drug-related offenses. As pointed out earlier, drug problems are hitting females at a faster rate than males. It was pointed out in the literature review that females convicted for drug offenses are driving up the total female inmate population in Oklahoma as well as nationally. The next analysis will examine male and female offenders convicted on drug-related offenses.

Table XXVIII shows that, in general, males received an average longer sentences than females for the four broad categories of drug offenses for each level of recidivism. The only exception was for a second conviction for drug distribution, for which the average sentence length for females was longer. A significant difference was found in the average sentence length for first conviction DUI, and first and second convictions for drug possessions.

These findings show that males who were convicted three separate times on driving under influence (DUI-2ND) received longer sentences than their female counterparts, and differences in their sentence length was significant only on first time conviction. Male offenders also received longer sentence than females on first-second and third-time convictions on drug possessions. The average sentence length for male first offense was 4.40 years compared to 3.69 years for females. For second offenses, males received an average sentence of 6.41 years and females received 4.84. Both were found to be statistically significant.

TABLE XXVIII

COMPARING DIFFERENCES IN SENTENCE LENGTH ON MALE AND FEMALE  
OFFENDERS FOR DRUG-RELATED OFFENSES ON THREE LEVELS  
OF RECIDIVISM, 1985, 1987, 1989 AND 1991

Offenses	Levels of Recidivism	Means		F-Va	P-Va		
		Male N=	Female N=				
DUI	1st	N=1608	2.10	N=70	1.80	4.47*	0.03
	2nd	N= 534	2.52	N=17	2.39	0.19	0.66
	3rd	N= 303	2.84	N= 3	2.66	0.02	0.87
Possession of Drugs	1st	N=968	4.40	N=248	3.69	4.44*	0.03
	2nd	N=305	6.41	N= 53	4.84	3.69*	0.05
	3rd	N=111	6.80	N= 16	6.15	0.12	0.72
Distribution of Drugs	1st	N=1674	5.45	N=348	4.96	2.23	0.13
	2nd	N= 301	8.89	N= 39	9.30	0.08	0.77
	3rd	N= 92	9.49	N= 8	6.25	1.43	0.23
Drug Trafficking	1st	N=66	13.97	N=12	8.75	3.33	0.07
	2nd	N= 2	24.00	N=00			
	3rd	N= 2	9.00	N=00			

\*Significance F-value at the .05 level

Results for distribution of drugs show that males convicted for the first and third times received an average longer sentence than females. In contrast, however, females received an average longer sentence for a second conviction. The average sentence length for males convicted a second time for drug distribution was 8.89 years whereas for females it was 9.30. On third offense, the average sentence length for males was 9.49 years while for females it was 6.25. Finally, it was found that while there were no female receptions on second and third levels of recidivism for drug trafficking, males received an average longer sentence for first-time convictions, but this difference was not significant. Evidently, all these findings show that even with an increasing participation of females in drug-related offenses, they are getting more lenient treatment.

In summation, based on this evidence it is quite clear that male offenders received an average longer sentence length in most of the offenses examined than did female. This was found to be the case in violent, nonviolent and drug-related offenses examined. The courts obviously showed leniency toward female offenders even when they were convicted several times for these offenses. For example, first-time male offenders for violent offenses received an average longer sentence in nine of the 11 violent offenses examined, whereas female first offenders received an average longer sentence in only two. Of those convicted a second time on violent offenses, male offenders on average were sentenced longer in nine out of 11 offenses while female offenders received an average longer sentence in two. Also,

third-time male offenders received an average longer sentence in ten offenses whereas females received an average longer sentence in only one. For nonviolent offenses, males got an average longer sentence in most offenses than their female counterparts. For the 19 levels of recidivism derived from seven nonviolent offenses examined, males got average longer sentences in all but eight. Finally, for the four drug-related offenses examined, with three levels of recidivism derived from each offense, male offenders got an average longer sentence in all but one level of recidivism (second time conviction of drug distribution). As has been shown, female offenders received longer sentences in only a handful of offenses whereas male offenders got longer sentences in most of the offenses, be they violent, nonviolent or drug-related offenses. Based on these findings, a conclusion can be drawn about the literature which suggests that female offenders generally are recipients of preferential treatment from the courts.

The sixth objective of this research was to establish if a judge's attitudes toward feminism would be associated with perceptions of females offenders as aggressive perpetrators of crime they commit. In order to accomplish this objective, questionnaires were sent to 232 out of 243 judges in the state of Oklahoma. One hundred and forty-four, or 62 percent, of the questionnaires were returned. The questionnaires were divided into three parts. Part One contained demographic information--sex, age range, marital status, race/ethnicity, and judicial levels. Part Two, which consisted of 13 questions, focused on judicial attitudes toward feminism. The responses were based on the following five Likert type

options: 1 = strongly agree, 2 = agree, 3 = undecided, 4 = disagree and 5 = strongly disagree. The third part, with 15 questions, focused on judicial opinions toward female criminality and female felons. Responses were based on three options for each question: 1 = Yes, 2 = No opinion and 3 = No. A simple descriptive statistical procedure (Analysis of variance) using means was applied to determine how the judges responded to each question. Also, a factor analysis procedure was applied as well to test the validity and reliability of these scales.

The rationale for this objective was based on the issues raised in the literature section concerning the effects of attitudes, values, beliefs, biases and stereotypes on the judicial decision-making process. Wikler (1980) pointed out that empirical studies of judicial attitudes by legal scholars and social scientists confirm that male judges tend to adhere to traditional values and beliefs about the "nature" and proper roles of men and women, and that they prefer traditional and familiar institutions and roles. Similar conclusions have also been reached by other scholars. Based on these assumptions, the objective was to determine if Oklahoma judges do in fact adhere to such traditional values, attitudes, and personal bias in their decision-making processes regarding female offenders.

These issues will be explained in this part of the research using two scales. The first one is to determine whether a traditional attitude exists which may influence the way decisions are made concerning female offenders who come before the bench. This scale ranges from 1 to 5. The highest number is least agree, 2.5-3.5

is center and the lowest number is most agree. The second one is to determine if certain judicial opinions exist towards female criminality and female felons.

#### Findings on Judicial Attitudes

With relevance to the first assumption, if these questionnaire responses are valid, and truly represent the judges' attitudes and feelings, then it can be assumed generally that judges in Oklahoma do not have traditional attitudes and biases towards female offenders. Table XXIX shows that judges generally agree with issues which mostly reflect nontraditional attitudes. Their responses tended to agree with questions which would indicate equality views toward female issues. Their responses also tended to disagree with questions which would indicate having bias or traditional attitudes toward feminist ideas. They generally seemed to agree with women's equality with men in employment, equal pay for equal work, in seeking professional training in the same occupations as men such as judges, et cetera. On domestic chores, they agreed that both husband and wife should share household chores if the wife works outside the home. They also agree that women should be able to withhold sex as they choose. They were generally neutral, or undecided on issues such as whether women should feel flattered by special attention or courtesy shown to them by men, and whether a single woman should be allowed to have as many partners as she desires. Their undecidedness on these sexual issues may be explained in two ways. Either it did not matter to them what a grown woman



TABLE XXIX  
JUDICIAL ATTITUDES TOWARD FEMINISM

Questions		Means	Standard Deviation
1. Women should have the right to compete with men for all kinds of jobs.	A	1.30	0.65
2. Regardless of sex there should be equal pay for equal work.	A	1.30	1.70
3. Women should be encouraged to become judges.	A	1.80	3.48
4. Women should be given equal opportunities with men for vocational training.	A	1.35	1.71
5. Male workers should receive higher pay than female workers since they usually have a family to support.	D	4.75	3.23
6. Women should be encouraged to seek employment in the fields where they will compete with men.	U	2.50	3.50
7. Appointments and promotions should be determined by how well a person does a job and not whether he/she is a man or a woman.	A	1.31	1.69
8. Husband and wife should share household chores if the wife works outside the home.	A	1.55	1.75
9. Married women should be able to withhold sex as they choose.	A	2.42	3.56
10. A man has a right to expect his wife to accept his views of what the family can afford to buy.	D	4.06	1.70

TABLE XXIX (Continued)

Questions		Means	Standard Deviation
11. Women should feel flattered by special attention shown to them by men (opening door, etc).	U	3.13	3.45
12. A single woman should be allowed to have as many partners as she desires.	U	3.09	3.54
13. A woman who asks a man for a date is being bold.	D	3.82	0.93

Range 1-5, Highest Number is least agree, 2.5-3.5 is center  
 \*A = Agree, D = Disagree, U = Undecided

behaves sexually, or they had some problems with that issue and did not wish to have their opinions known. Finally, they generally disagreed with the notion that a woman who asks a man a date is being bold, and also on whether a man has a right to expect his wife to accept his views of what the family can afford to buy.

#### Findings on Judicial Opinions

The next analysis focused on judicial opinions toward female criminality and female felons. The idea in this part was: first, to seek judicial opinions on the trend of female criminality; and second, to seek judicial opinions on the female felons and the way they are treated by the criminal justice agencies. There are three options rated 1 = Yes, 2 = No Opinion, and 3 = No. According to information presented on Table XXX, these judges not only believe that the incidence of female crime is changing, but also that females are engaging in more and more dangerous crime now than before. They also agree with the following propositions--that the aggressiveness of the contemporary female felons has changed their impression of female felons in the last decades, and that they have noticed an increasing load of female cases in their courts. They generally expressed no opinions on the following issues: whether the women's movement was responsible for the change in the behavior of female felons which they agreed occurred; whether the increasing load has any effect on their sentencing decisions; whether women benefit more from longer prison rehabilitation than the males; whether women are generally treated harshly by the criminal justice system; whether

TABLE XXX  
JUDICIAL OPINIONS TOWARD FEMALE CRIMINALITY

Questions		Means	Standard Deviation
1. Is the incidence of female crime changing?	Yes	1.11	0.30
2. Are women engaging in more crime now than before?	Yes	1.30	0.68
3. Is it accurate to talk about "masculine" and "feminine crimes?"	No Op.	1.88	0.54
4. Has your impression of female felons changed in the last decades?	Yes	1.74	0.63
5. Is the contemporary female felons more aggressive today than in the last decades?	Yes	1.61	0.82
6. Do other judges see female felons in more aggressive light?	No Op.	2.36	0.91
7. Is the women's movement responsible for the change in the behavior of female felons?	No Op.	2.22	0.80
8. Are female offenders getting lenient sentences?	No Op.	1.80	0.73
9. Have you been noticing an increasing load of female cases in your court?	Yes	1.26	0.63
10. If you answered "Yes" to the above question, have your sentencing decisions been influenced in any way by this increasing load?	No Op.	2.01	0.57
11. Do you think that female crimes are getting more dangerous?	Yes	1.69	0.78

TABLE XXX (Continued)

Questions		Means	Standard Deviation
12. Do you think that women benefit more from longer prison rehabilitation than the males?	No Op.	2.22	0.49
13. Do you think that females generally are treated harshly by the criminal justice system?	No Op.	2.83	8.47
14. Do you think that women in prison are treated harshly?	No Op.	2.48	0.65
15. Are females better prospects for probation and parole than the males?	No	2.01	0.80

Yes = 1, No Opinion = 2, No = 3

women are better prospects for probation and parole than the males; whether other judges see female felons in a more aggressive light; and finally whether it is accurate to talk about "masculine" and "feminine" crimes. The literature suggests that one of the reasons why female offenders may be sentenced longer than their male counterparts was because of the judge's belief that female offenders would benefit from longer sentences. Readers may be cautioned that what is presented here is an option response. This does not mean that attitudes do not affect sentencing. Finally, they responded "no" to the question of whether women in prison are treated harshly.

In summation, responses (in Tables XXIX and XXX) indicate that judicial attitudes reflect rather passive traditional attitudes toward feminist ideas. The judicial attitudes also reflected the view that female criminal activities are not only increasing rapidly, but also becoming dangerous and more aggressive. Their responses seem not to be manifested in the earlier stated assumption, in the sense that they reflect less negative attitudes toward female issues and more support for equality views toward female issues. That means that these respondents generally appear not to have the kind of attitudes expressed in this assumption. Their responses indicate views of equality toward female issues. However, they were generally undecided on some items such as on sexual issues. On other issues, they mostly agreed with views which represent nontraditional attitudes and mostly disagreed with views which represent traditional attitudes. Based on the information analyzed in this study, the assumption that Oklahoma judges have traditional attitudes toward

feminist ideas which may affect their sentencing decisions on female offenders was not affirmed. However, on the third part of the questionnaire which focused on judicial opinions toward female felons (see Table XXX), judges agreed to the changing incidence of female crime. They indicated that more females are engaging in crime more than before, that female felons are getting more aggressive, and consequently, their crime is getting more dangerous. This has resulted to an increasing number of female cases in their courts. While all this may have changed their impression of female felons, they indicated that it has not effected their decisions toward female offenders. However, they expressed no opinions on whether female offenders are getting more lenient sentences from the courts.

In addition to examining a possible differential treatment of male and female offenders in Oklahoma, this study also examines whether differential treatment exists among female offenders based on race and marital status. These objectives were based on issues raised in the literature review section relating to differential treatment among female offenders, especially female offenders who either have certain characteristics or who behave somewhat differently from what is considered "normal" female behavior.

The seventh objective in this research therefore was to determine if a difference in sentencing patterns exists between white female offenders and nonwhite female offenders for certain selected offenses. The basis for this objective comes from issues raised in the literature review which suggests, that although sex may be an important variable affecting sentencing, race may have just as much

influence. According to Lewis (in Weisheit and Mahan, 1988) black females are more likely than white females to be involved in crime. Also, Spohn, Welch, and Gruhl (1985) found that sentences of black females are more comparable to the sentences of white males than white females. They argue that at least some of this disparity is due to racial discrimination. There are nine categories of race identified in this study: Asian, Black, Chinese, Hispanic, American Indian, Japanese, Mexican, Other, and White. These nine categories were collapsed into two levels of race--white and nonwhite. All nonwhite females were collapsed into category one, and all white females were in category two. Black female offenders constitute an overwhelming majority in the nonwhite category. The first analysis will focus on ten violent offenses (see Table XXXI).

#### Differences in Sentence Length for Violent Offenses

Results from this study indicate that there is a difference in sentencing pattern among female offenders based on race. For the eleven violent offenses examined, nonwhites received an average longer sentence for seven offenses of Burglary 1 and 11, Murder 11, manslaughter, kidnapping and other violent offenses. White females received longer sentences for the four offenses of Murder 1, robbery, assault, and arson. A significant difference was found only for manslaughter, where nonwhite females received an average longer sentence. No significant difference was found in any of the four offenses where white females received longer sentences. There is a difference in sentence length between whites and nonwhites convicted



TABLE XXI

COMPARING THE SENTENCE LENGTH MEANS BETWEEN WHITE AND NONWHITE  
FEMALE OFFENDERS SENTENCED FROM .00 YEARS TO 60 YEARS,  
1985, 1987, 1989 AND 1991

Offenses	Means		F-value	P-value
	NonWhite	White		
1. Burglary I	6.95 (N=10)	4.00 (N=1)	0.65	0.44
2. Burglary II	4.98 (N=18)	4.77 (N=37)	0.02	0.87
3. Murder I	0.91 (N=1)	8.94 (N=9)	1.49	0.25
4. Murder II	19.30 (N=10)	9.00 (N=4)	4.05	0.06
5. Manslaughter	16.00 (N=18)	9.41 (N=24)	4.58*	0.03
6. Robbery	7.25 (N=45)	9.18 (N=29)	1.16	0.28
7. Assault	3.41 (N=24)	4.12 (N=15)	0.38	0.53
8. Larceny	4.24 (N=361)	3.50 (N=163)	3.08	0.07
9. Arson	2.60 (N=5)	5.40 (N=5)	2.88	0.12
10. Kidnapping	10.00 (N=1)	9.00 (N=3)	0.25	0.66
11. Other Violent	6.08 (N=12)	4.17 (N=20)	2.03	0.16

\*Significance F-value at the .05 level

on Burglary I and II. Although the difference is not significant, nonwhites were more likely to be sentenced longer with an average sentence of 6.95 years compared to 4.00 years for white females. While white females received an average sentence of 8.9 years for Murder I, nonwhites received less than a year. However, nonwhite females received an average longer sentence (19.30 years) for Murder II while white females received 9 years. No significant differences were found in either. Nonwhite females convicted for manslaughter received a significantly longer sentence than their white counterparts. Nonwhites convicted on manslaughter charges received an average sentence of 16 years compared to 9 years for whites females. A similar result was also found for larceny, which shows nonwhites getting an average longer sentences of 4.24 years compared to that of 3.50 years for white females. This study found a greater average sentence length for white females convicted for robbery, assault, and arson. For the offenses of kidnapping and other violent offenses, although the average sentence length was greater for nonwhite females than white females, neither of these was found to be significant.

#### Differences in Sentence Length for Nonviolent Offenses

The next analysis focuses on nonviolent offenses. Neither white nor nonwhite females receive a consistent lenient or harsher sentences for these offenses. Table XXXII shows that for the seven nonviolent offenses examined, both white and nonwhite females received greater average sentence lengths for three offenses each.

TABLE XXXII

MEANS SENTENCE LENGTH BETWEEN WHITE AND NONWHITE OFFENDERS  
ON NONVIOLENT OFFENSES, 1985, 1987, 1989 AND 1991

Offenses	Means		F-value	P-value
	NonWhite	White		
1. Bogus Ckeck-Card	5.46 (N=58)	3.26 (N=99)	7.85*	0.00
2. Forgery	3.61 (N=80)	4.22 (N=131)	1.67	0.19
3. Fraud	3.26 (N=40)	2.95 (N=47)	0.29	0.59
4. Embezzlement	3.85 (N=14)	4.87 (N=64)	0.44	0.50
5. Sex	0.00 0.00	8.95 (N=12)		
6. Weapons	4.84 (N=20)	3.53 (N=14)	1.24	0.27
7. Other Non Violent	2.90 (N=24)	5.32 (N=30)	2.28	0.13

\*Significance F-value at the .05 level

There were no nonwhite receptions for sex offenses. The reason for this was neither given nor found in the literature. One may speculate that white females are more likely to be arrested for sex offenses than nonwhite females. Nonwhites received an average longer sentence for bogus check-card, fraud, and weapon. A significant racial difference was found only for bogus check-card sentences. Whites received an average longer sentence for forgery, embezzlement and other nonviolent offenses. No significant difference was found for any of these offenses.

Specifically, the average sentence length for nonwhites convicted on a bogus check-card offense was 5.46 years compared to that of 3.36 years for whites. For conviction on fraud, nonwhite females had 3.26 years compared to that of 2.95 years for white females. On weapon convictions, nonwhite females had an average sentence length of 4.84 years compared to that of 3.53 years for white females. White females had an average longer sentence of 4.22 years for conviction in forgery compared to that of 3.61 years for nonwhite females. Also, white females had an average longer sentence of 4.87 years for conviction on embezzlement compared to that of 3.85 years for nonwhite females. Finally, on convictions for other nonviolent offenses, white females had an average sentence length of 5.32 years compared 2.90 years for nonwhite females.

#### Differences in Sentence Length for

#### Drug-related Offenses

The final analysis concluded was on drug-related offenses. As pointed out by the former Director of Oklahoma Department of

Corrections, female drug offenses are really increasing the Oklahoma inmate population. In 1990, according to the Oklahoma State Department of Corrections, 37 percent of all female receptions were drug related. This distribution of drug offenses by offenders in Oklahoma is not racially balanced. A 1991 report from the DOC specifically pointed out that Oklahoma has a high percentage of Black drug offenders. The report indicated that 44 percent of male and 42 percent of female drug offenders are Black. No further details were given on this report about other ethnic groups. In view of this fact, this research objective examines the differences in average sentence length between white and nonwhite female offenders. Bear in mind that blacks constitute a very high number of all nonwhite female offenders.

Results shown in Table XXXIII indicate that both racial groups have an equal number of offenses where longer average sentences were given. None of the differences for the four broad drug-related offenses examined were found to be significant. Nonwhite and white females each received longer sentences for two offenses. Nonwhite females received an average longer sentence for DUI and drug trafficking, while white females received an average longer sentence for possession and distribution of drugs. Nonwhite females had an average sentence length of 2.05 years for DUI compared to that of 1.88 years for white females. For drug trafficking, nonwhite females had an average sentence of 11.40 years and white females had 6.85 years. For drug possession, the average sentence length for white females was 4.24 years, while for nonwhites it was 3.73 years. Finally, white females convicted for drug distribution received an

TABLE XXXIII

MEANS SENTENCE LENGTH BETWEEN WHITE AND NONWHITE OFFENDERS  
ON DRUG-RELATED OFFENSES, 1985, 1987, 1989 AND 1991

Offenses	Means		F-value	P-value
	NonWhite	White		
1. DUI-2ND	2.05 (N=30)	1.88 (N=60)	0.43	0.51
2. Possession of Drugs	3.73 (N=145)	4.24 (N=172)	1.19	0.27
3. Distribution of Drugs	5.37 (N=152)	5.45 (N=243)	0.03	0.87
4. Drug Trafficking	11.40 (N=5)	6.85 (N=7)	2.09	0.17

\*Significance F-value at the .05 level

average sentence of 5.45 years compared to that of 5.37 years for nonwhite females.

Based on these results, there appears to be evidence supporting differential sentencing patterns in violent offenses for these two categories of races. However, such was not found to be the case in both nonviolent and drug-related offenses. The differences in sentencing patterns were clearly shown for violent offenses. It was found that of the 11 violent offenses examined, nonwhite females received harsher sentences for convictions in seven offenses as compared to only four for white females. For nonviolent offenses, the pattern was not consistent for either racial group. Both had an equal number of offenses where they were sentenced longer. A similar result was also found for drug-related offenses where both had an equal number of offenses where each got a longer average sentence. Also, significant differences were found only in a very few of these offenses. With these findings, one cannot make a conclusively convincing argument, based on race, that either group is a consistent recipient of either lenient or harsh treatment, especially with relevance to nonviolent and drug-related offenses. It is however clear, based on these findings, that differences in sentencing patterns do exist only for violent offenses. Therefore, it is not concluded that white female offenders were not necessarily being treated preferentially. Neither can it be concluded that nonwhite female offenders were treated leniently, even though for violent offenses they received longer sentences than did white female offenders.

The final research objective for this study was to determine if there was a difference based on marital status, in sentencing patterns for female offenders for some selected offenses. The three categories of marital status analyzed were Single, Divorced/Separated and Married. A fourth category of Unknown was also included. Offenses under which they were analyzed are divided into three parts: violent, nonviolent and drug-related offenses. The sentence lengths analyzed ranged from .00 years to 60 years. Since the primary focus of this analysis is both married and single female offenders, the discussion will primarily focus on these two categories. Occasionally, comparative references will be made to the Unknown and Divorced and Separated categories.

The effects of marital status on treatment of offenders by the criminal justice system is well entrenched in the literature. This is particularly evident in the way nonmarried females charged with "manly crimes" are treated by the criminal justice system. Ghali and Cheseny-Lind (1986) have reported studies which have found evidence suggesting that females charged with "manly crimes" particularly if they cannot provide other evidence of their "respectability" (such as marriage), may be sanctioned more harshly than their male counterparts charged with traditional female crimes. Other studies have suggested that the benefits enjoyed by females while under criminal justice process greatly depends on their marital status. On this point, Wikler notes:

Some women, particularly those who engage in traditional female offenses, may enjoy benefits before the courts-- particularly if they can establish themselves as 'women' by fulfilling other traditional roles (e.g., wife and mother). But other women whose criminal activity is 'unfeminine'



(e.g., violent) may be treated more harshly, particularly if they cannot provide other evidence of conformity to the standards of womanhood--through marriage or economic dependence on a man (Wikler, 1980, 205).

The following analysis will test the above argument by examining the patterns of sentencing based on average sentence length of female offenders by marital status.

#### Differences in Sentence Length for

#### Violent Offenses

Eleven violent offenses were examined, but analysis was focused only on ten because no single female was received for Murder I. For these ten offenses Table XXXIV shows that there are no differences in sentencing patterns between single and married females. Both single and married females got longer sentences in five offenses each. Single females were sentenced longer for Burglary I, Murder II, manslaughter, robbery, and other Violent offenses. Married females were sentenced longer for Burglary II, larceny, assault, arson and kidnapping. A significant difference was found in Burglary I and Murder II offenses where single females received longer average sentence lengths.

Examination of individual offenses show that single females convicted for Burglary I received an average sentence length of 6.39 years compared to that of 3.33 years for married females. Unknown and Divorced/separated female offenders received significantly longer sentences than even single and married offenders for this offense. The reverse was found to be the case for single and married females convicted on Burglary II. Though not significant, married females

TABLE XXXIV

MEANS SENTENCE LENGTH AMONG FEMALE OFFENDERS ON  
MARITAL STATUS, 1985, 1987, 1989 AND 1991

Offenses	<u>Levels of Marital Status Means</u>				F-value	P-value
	Unknown	Single	Div/Sep	Marrd		
1. Burglary 1	10.00 (N=1)	6.39 (N=4)	9.33 (N=3)	3.33 (N=3)	2.98*	0.01
2. Burgalry 11	3.50 (N=12)	4.20 (N=15)	5.55 (N=9)	5.85 (N=19)	0.78	0.51
3. Larceny	3.97 (N=63)	3.98 (N=130)	4.00 (N=109)	4.03 (N=222)	0.01	0.99
4. Murder 1	4.50 (N=4)	None None	10.00 (N=1)	10.68 (N=5)	1.10	0.38
5. Murder 11	12.33 (N=3)	40.00 (N=1)	16.00 (N=4)	14.66 (N=6)	3.62*	0.05
6. Manslaughter	11.22 (N=9)	21.00 (N=7)	7.88 (N=9)	11.47 (N=17)	2.55	0.07
7. Robbery	5.44 (N=9)	9.52 (N=20)	4.09 (N=11)	9.07 (N=34)	1.89	0.13
8. Assault	3.16 (N=9)	2.50 (N=2)	3.10 (N=13)	4.66 (N=15)	0.66	0.57
9. Arson	None None	3.00 (N=2)	2.80 (N=5)	6.66 (N=3)	2.46	0.15
10. Kidnapping	0.00 (N=1)	8.50 (N=2)	None None	10.00 (N=1)	0.25	0.81
11. Other Violent	4.27 (N=9)	5.66 (N=3)	4.50 (N=8)	5.41 (N=12)	0.22	0.88

\*Significance F-value at the .05 level

convicted for Burglary II received longer average sentences than single females. Even the average sentence length for divorced/separated female offenders was longer than for single female offenders. The Unknown category received a slightly shorter sentence length on this offense than did the other three groups. No great differences in sentence length were evident for larceny. Married females convicted on Murder I received longer average sentences than Unknown and Divorce-separated did. Among female offenders convicted on Murder II charges, significant differences were found in their sentence length. Single offenders, though only one in number, received a significantly longer sentence length of 40 years compared with that of 14.66 years received by married female offenders. Divorce/separated female offenders also received a slightly longer average sentences than married offenders. Unknown offenders received a shorter average sentence than any of the other three groups.

Manslaughter seems to be one of the offenses where single female offenders do not fare well. Single female offenders convicted on manslaughter charges received an average sentence of 21 years compared to that of 11.47 years for married females. The average sentence length for the Divorced/Separated was the shortest and sentence length for Unknown was almost comparable to the Married offenders. Among females convicted on robbery, being married seemed to be an advantage since they received a slightly shorter average sentence than that received by single offenders. However, the contrary was found for married females convicted on offenses such as assault, arson, and kidnapping. Being married did not appear to help

married females convicted on these three offenses since they received longer sentences in each of these offenses as compared to those received by single female offenders. In fact, married female offenders were sentenced longer than any of the other three groups for these offenses. The reason for this may be that the courts attach more responsibility and respect to marriage. Thus, they do not expect married people to be engaged in such offenses. For Other violent offenses, however, single females' sentences were slightly longer than married females, and much longer than Unknown and Divorce/separated females.

From the above analysis, it appears that the influence of marital status for single and married females is not very influential in sentencing patterns, especially for females being sentenced for violent offenses. The sentencing pattern is not consistent for single and married female offenders. Being married may not have any significant beneficial value when it comes to judicial processes, at least for violent offenses. As previously shown, single and married females each got longer sentences in five of the ten offenses examined. However, it must be pointed out that this finding was based on comparisons between single and married females. When single and divorce/separated females are collapsed together, this finding did not hold.

#### Differences in Sentence Length for Nonviolent Offenses

The next analysis focuses on nonviolent offenses and may shed some light on the effects of marital status on sentence length. The

results shown in Table XXXV indicate that there is a difference in sentencing patterns for single and married females convicted of nonviolent offenses. For the seven nonviolent offenses examined, married females were sentenced longer for five offenses, whereas single females were sentenced longer in two. However, when comparing sentence lengths of married females to either single or divorce/separated, married female offenders received a longer sentence in two offenses--bogus check-card and other nonviolent offenses. Married females received a longer sentence than did single females for convictions in the following--offenses bogus check-card, forgery, embezzlement, sex, and other nonviolent offenses. Single females were sentenced longer for fraud and weapons offenses than married females. No significant difference was found for either married or single females for these offenses. Examination of differences in specific offenses shows that married females convicted for bogus check-card charges received longer average sentences than the single, Unknown and, Divorced/Separated female offenders.

A similar finding exists for forgery where married females were found to be sentenced longer than single female offenders. Among females convicted on fraud, single females received slightly longer sentence than did married females. The average married female offender's sentence length was, however, longer than that given to Unknown and Divorced/separated females. Being married did not help females convicted on either embezzlement or sex offenses when compared to single females, but was helpful to them when compared with all marital groups. Married females were sentenced longer than

TABLE XXXV

MEANS SENTENCE LENGTH AMONG FEMALE OFFENDERS ON  
NONVIOLENT OFFENSES BASED ON MARITAL STATUS,  
1985, 1987, 1989 AND 1991

Offenses	<u>Levels of Marital Status Means</u>				F-value	P-value
	Unknown	Single	Div/Sep	Marrd		
1. Bogus Check-Card	3.34 (N=26)	3.45 (N=15)	3.73 (N=41)	4.64 (N=75)	0.68	0.56
2. Forgery	2.66 (N=30)	3.47 (N=31)	4.37 (N=66)	4.36 (N=84)	2.49	0.06
3. Fraud	2.75 (N=12)	3.90 (N=15)	2.43 (N=19)	3.20 (N=41)	0.93	0.42
4. Embezzlement	4.62 (N=12)	2.00 (N=9)	5.84 (N=27)	4.48 (N=30)	11.30	0.28
5. Sex	17.50 (N=2)	6.00 (N=1)	10.00 (N=1)	7.02 (N=8)	1.50	0.28
6. Weapons	4.32 (N=6)	5.28 (N=7)	4.72 (N=11)	3.14 (N=10)	0.62	0.61
7. Other Non Violent	1.40 (N=7)	2.61 (N=9)	5.09 (N=16)	5.21 (N=22)	1.08	0.36

\*Significance F-value at the .05 level

single females for these two offenses, but given shorter sentences than divorced/separated and Unknown females. Surprisingly, single females convicted on these two offenses were given shorter sentences than Divorced/separated and Unknown females. These harsh sentences given to married female offenders convicted on embezzlement and sex offenses may be due to traditional attitudes held by the court. Juries and the judiciary may have perceived their behavior as a deviation from that expected for married people. Single females convicted on weapon offenses received longer average sentences than any of the other groups. Married females convicted on other nonviolent offenses received longer average sentences than any of the other groups analyzed. Single females were found to have received a shorter sentence than Divorced/separated females for Other nonviolent offenses.

These findings may indicate that there is nothing in the nature of being married, single, divorced or separated that gives females special benefit with regard to sentencing. However, it is noted that single females received longer average sentences for fraud and weapon offenses while divorced/separated females received longer average sentences for forgery, embezzlement, and sex offenses.

#### Differences in Sentence Length for Drug-related Offenses

The final analysis focuses on drug-related offenses where differences in sentencing patterns based on marital status also seems obvious. It evidently appears that married females convicted on

drug-related offenses are treated more harshly than their single female counterparts, but less harshly when compared to all marital groups. As shown in Table XXXVI, the advantage of being married seems to fluctuate depending on how comparisons are made. For the four drug-related offenses examined, married females, when compared to single females, got longer average sentences in all offenses. However, when all marital groups are compared, divorced/separated females received longer sentence for three of the four offenses (DUI, drug distribution and drug trafficking). It apparently indicates that being a married female appeared to work as a disadvantage some points and as an advantage at other points for these offenses. The average sentence lengths for married females convicted for DUI, possession of drugs, distribution of drugs and drug trafficking offenses were longer than those given to their single female counterparts. In summation, this research objective began by assuming that female offenders who cannot show evidence of respectability, such as marriage, may be sanctioned more harshly than their counterparts who are married. Relevant sections of literature were cited to support this assertion. Having analyzed the sentence length for these offense categories (in Tables XXXIV, XXXVI, and XXXVI), the pattern in sentencing between married and single female offenders was examined in all offenses. Results from this research (see Table XXXIV) show that there is no difference in sentencing pattern between married and single female offenders convicted for violent offenses. It was found that out of the ten violent offenses analyzed, both married and single females each received longer



TABLE XXXVI

MEANS SENTENCE LENGTH AMONG FEMALE OFFENDERS ON  
 DRUG-RELATED OFFENSES BASED ON MARITAL STATUS,  
 1985, 1987, 1989 AND 1991

Offenses	Means				F-value	P-value
	Unknown	Single	Div/Sep	Marrd		
1. DUI-2ND	1.24 (N=11)	1.92 (N=14)	2.18 (N=28)	1.96 (N=37)	1.78	0.15
2. Possession of Drugs	2.44 (N=31)	3.68 (N=44)	4.12 (N=85)	4.34 (N=157)	1.95	0.12
3. Drug Distribution	3.50 (N=36)	4.63 (N=48)	6.12 (N=136)	5.79 (N=176)	2.44	0.06
4. Drug Trafficking	None None	5.66 (N=3)	10.00 (N=4)	9.60 (N=5)	0.56	0.59

\*Significance F-value at the .05 level

sentences for five of the ten offenses. However, it should be pointed out that divorced/separated females who met criteria for nontraditional behavior received the second longest average sentences for six of these offenses. A similar situation was found for nonviolent offenses. Married females received longer average sentences for two offenses as did single and divorce/separated females. However, divorced/separated females received the second longest average sentences for four nonviolent offenses. When considering drug-related offenses, married females received longer average sentences than did single female offenders. However, divorced/separated females almost consistently received the longest average sentence for all categories of marital status. When considering violent, nonviolent and drug-related offenses, single female offenders received longer average sentences for six offenses, while married females received longer average sentences for eight offenses. Divorced/separated females received longer average sentences for six offenses.

It is therefore not clear that married females are treated more harshly than single females. The two categories of marital status where women did not have male authority figures in their lives consistently received the longest average sentences. This may mean that if any conclusion is to be drawn based on this particular analysis, it would be that married females receive longer sentences for certain offenses while single and divorced/separated females receive longer sentences for certain offenses. In general, however, married females appear to receive longer average sentences for

nonviolent and drug-related offenses, especially when compared to single females. While there may be other reasons why married females appear to be treated more harshly than single females, one speculation may be that it is due to the high respect and responsibility attached to the institution of marriage by the courts. Judges or juries who usually do the convicting, may see the behavior of these married females as not in line with the way married females ought to behave. Giving them longer sentence may serve as a deterrent as well as a warning that their behavior is in violation of expected married female behavior. Thus, this, supports the traditional attitudes assumption as well as the conflict perspective.

## CHAPTER VI

### SUMMARY AND CONCLUSION

#### Introduction

This study was designed as an exploratory comparison and analysis of both the existing data sets and data sets collected from questionnaires administered to judges in Oklahoma. The general purpose of this analysis was to determine how female offenders in Oklahoma are treated relative to male offenders by the Oklahoma criminal justice system. The rationale for this analysis was based on the 1991 reports from the Oklahoma Department of Corrections which showed Oklahoma having the highest percentage of female inmates in the nation. This research was thus designed to explore the possible causes of this phenomenon by examining arrests data and receptions data, as well as seeking judicial opinions on this issue. It was anticipated that analysis of these variables would possibly establish some relationships which should serve as a point of reference for future research in this area. Examination of these variables focused on eight specific research objectives. Each of the research objectives are reviewed as results are interpreted and explained.

## Objectives

### Objective 1

The first objective of this research was to determine if the percentage of female arrests have increased between 1985, 1987, 1989 and 1991 for some selected offenses. The rationale was that an increasing number and percentage of female arrests examined over these years might offer some explanation for the increasing percentage of female incarcerations in the state. Findings from this study have shown that overall, there have been consistent but modest increase in total female arrests over the years examined (see Table IV). It was found that total female arrests increased in each of the years examined. Total female arrests increased from 20,916 (15.8%) arrests in 1985 to 23,013 (18.5%) arrests in 1991. In 1985, it was found that there were a total of 20,916 female arrests, representing 15.8% of the total arrests in Oklahoma. This increased to 20,054 (16.8%) in 1987, and further to 21,155 (17.7%) arrests in 1989. Finally, in 1991, female arrests increased to 23,013 accounting for 18.5 percent of the total male and female arrests in that year.

This research also found some evidence of increases in female arrests in types of offenses examined (see Table VII), especially between 1985 and 1989. While the total female arrests over these years showed an increasing trend, however, this was not observed in all individual offenses examined. It was found that only a relatively few offenses, mostly nonviolent showed a continuously rising trend, while other offenses showed inconsistent ups and downs.

Female arrests in prostitution and commercialized sex were the only offense which maintained consistent declining patterns. Female arrests on drug-related offenses represent a large portion of the total female arrests. More of these arrests occurred for drunkenness and driving under the influence of alcohol.

Also, when the percentage of female arrests in Oklahoma was compared to that of nation (see Tables XIII, XIV, and XV), it was found that the percentage of female arrests in Oklahoma is higher than the national percentage in most of the violent, nonviolent and drug-related offenses analyzed. In view of these findings, it can be argued that there may be a relationship between those increases in female arrest and the increasing percentage of female incarcerations. The high percentage of female arrests in Oklahoma may relate to the high percentage of female incarcerations in the state. Theoretically speaking, it may be assumed that the more female arrests there are, the more female incarcerations there will be.

#### Objective 2

The second objective of this research study was to determine if the percentage of female prison inmates has increased between 1985, 1987, 1989 and 1991 for some selected offenses. Findings from this research affirmed this assumption by indicating that the percentage of female prison inmates relative to males has increased within the period examined. Results show that the percentage of female offender receptions relative to male receptions increased from 7.9 percent in 1985 to 12.9 percent in 1991. Receptions for violent offenses

consistently increased over these years, whereas receptions in nonviolent offenses increased from 1985 to 1989, and then declined in 1991. Similarly, receptions for drug-related offenses also increased over these years. Receptions in offenses such as Murder 1, larceny and robbery showed some consistent increases over the years. Among the nonviolent offenses, only receptions in bogus-check-card, fraud and embezzlement offenses showed continuous increases. Receptions in drug-related offenses such--as possession of drugs, distribution of drugs and drug trafficking--also maintained an increasing trend over the years.

### Objective 3

The third objective of this study was to determine if the percentage of arrests was related to the percentage of inmates. When comparing female arrests and receptions for the years examined, no relationships were found between the total percentage of arrests and total percentage of receptions. However, some relationships were found in the sense that both increased over the years examined, but the percentage of arrests was consistently higher. The percentage of offenders who usually ended up incarcerated was usually very low compared to the number arrested. As pointed out earlier in the literature review chapter, Ghali and Chesney-Lind (1986) indicated that whereas females constitute 15 percent of those arrested in 1982, only 6.5 percent comprised the jail population and 4.4 percent comprised the general prison population. A similar view has also been expressed by Bowker (1978) who pointed out that adult females

comprise about 14.9 percent of the those arrested in 1975. However, they were only 5.9 percent of those held in the nation's jails, 11 percent of those convicted, and only 3.4 percent of those incarcerated in state and federal prisons. Such trends apply in all jurisdictions, including Oklahoma.

#### Objective 4

The fourth objective of this research study was to determine if female offenders received longer sentences than males when both were convicted for the same offenses. The rationale for this objective was that the increasing percentage of female incarcerations in Oklahoma may be related to a possible discriminatory or indeterminate sentencing, in which female offenders may be sentenced faster, longer, and more punitively than their male counterparts. This could result from the traditional attitudes of the criminal justice personnel which may perceive female participation in criminal activities as a flagrant violation of expected female behavior. This assumption was not supported by the results found in this study. Based on the results found in this research (see Tables XVII, XVIII, XIX, and XX) female offenders did not appear to be getting longer sentences than their male counterparts. Male offenders are, in fact, found to be sentenced more harshly than their female counterparts. For the eleven violent offenses examined (see Table XVII), males received longer average sentences for all but one offense (manslaughter). Four of the ten offenses were found to be statistically significant. Also, out of the seven nonviolent



offenses examined (see Table XVIII), male offenders received longer average sentences for four and female offenders received longer average sentences for three offenses. Also, for the four offenses analyzed under drug-related (see Table XIX), male offenders were found to have been sentenced longer for each offense, but only three were found to be statistical significant.

For the proportions of male and female offenders who received life, life without parole, and death, results (see Table XX) show that male offenders disproportionately received these sentences more often than did female offenders. More male offenders received life, life without parole, and death in almost all these offenses than did female offenders. Based on these findings, it may be concluded that female offenders examined in this study did not get sentencing as punitive as assumed by this objective. Male offenders were sentenced longer and female offenders sentenced shorter in most of the offenses analyzed. Therefore, female offenders, at least from this particular research, appear to be recipients of preferential treatment and not the other way around as previously suggested.

#### Objective 5

The fifth objective of this research was to determine if female first offenders, second offenders, and third offenders receive more severe sentences than male first offenders, second offenders and third offenders for some selected offenses. This research objective would be the one to actually determine if female offenders are treated differentially--leniently or punitively. It was assumed that

if the Oklahoma judiciary truly adheres to traditional attitudes which may result in harsh and punitive treatment toward female offenders, such attitudes may clearly be manifested toward females who are recidivists.

If such judicial attitudes exist toward female offenders, they do not seem manifested into harsh and punitive punishment toward female offenders as observed by this study. Their results (see Tables XXI, XXII, and XXIII) clearly show that male offenders received an average longer sentence in most of the offenses examined than their female counterparts. This was found to be the case in violent, nonviolent and drug-related offenses examined. The courts obviously showed leniency to female offenders--even when they were convicted several times on these offenses--and discriminated against male recidivists. It was found that for violent offenses, first-time male offenders received an average longer sentence in nine of the eleven violent offenses examined, whereas first time female offenders received an average longer sentence in only two. Of those convicted a second time for violent offenses, male offenders received an average longer sentence in nine of eleven offenses, and female offenders received an average longer sentence in two. For third time violent offenders, male received an average longer sentence in ten of eleven offenses, while females received an average longer sentence for one offense.

Among the nonviolent offenses examined, males received an average longer sentence for most offenses analyzed than did females. For the 19 levels of recidivism derived from seven nonviolent

offenses examined, males received an average longer sentence in eleven of 19 levels of recidivism, whereas females received longer average sentences in only eight. Finally, on drug-related offenses, for the four drug-related offenses examined--with three levels of recidivism derived from each offense--male offenders received longer average sentences in all but on one level of recidivism (second time conviction of drug distribution). As has been shown, female offenders received an average longer sentence in only a handful of offenses; whereas male offenders received an average longer sentence in most of the offenses, be it violent, nonviolent and drug-related offenses. Based on these findings, it was concluded that female offenders are generally recipients of preferential treatment from the courts even when convicted of committing an offense several times.

#### Objective 6

The sixth research objective of this study was to establish if judges' attitudes toward feminism would be associated with perceptions of female offenders as aggressive perpetrators of crimes they commit. The rationale for this objective was the assertion that judiciary attitudes and opinions might bias the judiciary toward feminist issues as well as female criminality in general. This objective was divided into two parts. The first part focused on judicial attitudes toward feminism, and second part focused on judicial opinions toward female crime and female felons.

Based on the responses received (see Tables XXIV and XXV), they appear to generally indicate a judicial attitude which is passive

toward feminist ideas. The responses also indicated that female criminal activities are not only increasing rapidly, but are also becoming more dangerous and more aggressive. Their responses appear not to be manifested in the earlier stated assumption that judges reflect less negative attitudes toward female issues and reflect views of equality toward female issues. That means that the Oklahoma judiciary generally appears not to have the kind of attitudes previously expressed in the literature. While they were generally undecided on some issues, especially on sexual issues, they mostly agreed with views which represent nontraditional gender attitudes and mostly disagree with views which represent traditional gender attitudes. The assumption that judges (in this case, Oklahoma judges) have traditional attitudes toward feminist ideas which may affect their sentencing decisions of female offenders is not well affirmed by this study.

However, on the third part of the questionnaire--which focused on judicial opinions toward female criminality and female felons--judges agreed on the changing incidence of female crime. They indicated that more females are engaging in crime than ever before; that female felons are getting more aggressive; and, consequently, their crime is getting more dangerous. This has resulted in an increasing load of female cases in their courts. While all these may have changed their impression of female felons, they expressed no opinion on whether this has affected their judicial decision-making process toward female offenders, and whether or not female offenders are getting more lenient sentences from the courts.

Objective 7

The seventh objective of this study was to determine if there is a difference in sentencing patterns between white female offenders and nonwhite female offenders for certain selected offenses. Based on the results found, while there is some evidence supporting differential sentencing patterns between white and nonwhite female offenders in violent offenses examined, such was not found to be the case in both nonviolent and drug-related offenses. The differences in sentencing patterns were more clearly shown in violent offenses. It was found that for the 11 violent offenses examined, nonwhites got harsher sentences for convictions in seven cases as compared to only four for whites. In nonviolent offenses, the pattern was not consistent for either side. Both had equal number of offenses where they both got longer sentences. A similar result was also found for drug-related, where both had equal number, of offenses where they both got longer sentences. Also significant differences were found only in a very few of these offenses. With these findings, one cannot make an overall conclusively convincing argument based on race that either of the groups is a consistent recipient of either lenient or harsh treatment from the criminal justice system, especially with relevance to nonviolent and drug-related offenses. It is clear, however, based on these findings that differences in sentencing patterns do exist, but only in violent offenses--not in nonviolent or drug-related offenses. Therefore, it may not be concluded that white female offenders were not necessarily being treated preferentially. Neither can it be concluded that nonwhite female offenders were

treated more leniently since they received longer sentences in more violent offenses than white female offenders did.

#### Objective 8

The final objective of this research was to determine if there was a difference in sentencing patterns for female offenders by marital status for certain selected offenses. Comparisons were made of four levels of marital status. However, emphasis was focused more on married and single female offenders. This research objective is based on literature which suggests that female offenders who cannot show evidence of respectability, such as marriage, may be sanctioned more harshly than their counterparts who are married.

Having analyzed the sentence length of three offense categories (Tables XXI, XXII, and XXIII), differences in sentencing patterns between married and single female offenders were found not to be consistent in all offenses examined. Results show that there is no difference in sentencing pattern between married and single female offenders convicted of violent offenses. It was found that out of the ten violent offenses analyzed, both married and single female offenders each received longer average sentences in five of the ten offenses. Contrary results, however, were found in nonviolent offenses where differences in sentencing patterns between married and single female offenders was more evident. It was found that out of the seven nonviolent offenses examined, married females received an average longer sentence in five offenses whereas single females received an average longer sentence in only two offenses. For

drug-related offenses examined, a similar harsh sentencing results were found for married female offenders. Married females were found to have been sentenced longer in all the drug-related offenses; however, when single and divorced/separated females were collapsed, and compared to married females, a different finding was reached. When considering all violent, nonviolent and drug-related offenses analyzed, single females received an average longer sentence for six offenses, while married females received an average longer sentence in eight offenses. Divorced/separated females received an average longer sentence for six.

Based on this analysis, it is not very clear that married females are consistently treated more harshly than single females in all offenses. The two categories of marital status where women did not have male authority figures in their lives consistently received the longest average sentence. This may mean that if any conclusion is to be drawn based on this particular analysis, it would be that married females receive longer sentences for certain offenses while single and divorced/separated receive longer sentences for certain other offenses. In general, however, married females appear to have longer average sentences for nonviolent and drug-related offenses when compared to single females. While there may be other reasons why married females appear to be treated more harshly than single females, one speculation may be that it is due to high respect and responsibility attached to the institution of marriage by the courts. Judges or juries, who usually do the convicting, may see the behavior of these married females as not in line with the way married females

ought to behave. Giving them longer sentences may serve as a deterrent as well as a warning that their behavior is in violation of expected married female behavior. Thus, this supports the traditional attitudes assumption as well as conflict and power perspectives.

#### Guiding Principles: Result and Interpretation

This research was conducted in response to a report which indicated that Oklahoma leads the nation in the percentage of female incarcerations. The initial assumption which guided this research was that this phenomenon may have been due to the differential treatment of female offenders. It was assumed that a conservative state like Oklahoma, whose judiciary may adhere to traditional attitudes, may be responding to females who break the law with more severe sentences than they would with males who convicted for similar offenses.

In order to accomplish this principle assumption, arrest records and sentence records were analyzed. Also judicial opinions were sought concerning their attitudes toward female offenders. Arrest records would reveal the trends of female participation in criminal activities. Average sentence lengths for male and female offenders on different levels, including three levels of recidivism, were compared to determine the differences in their average sentence lengths. Other variables including race and marital status were also examined. Any evidence of increasing arrests would be deduced to have some impacts on the increasing percentage of incarcerations.



Also, any evidence showing a consistent pattern of longer average sentences for female offenders would indicate differential treatment against female offenders. Finally any evidence of adhering to traditional attitudes on the part of the judiciary would show them as being prejudicial and discriminatory against female offenders. As has been pointed out above, no such evidence was found to be true, or consistent--particularly in the sentence length. Female offenders were not sentenced longer in most of the offenses. Male offenders were consistently sentenced longer in most of the offenses. Therefore, female offender sentencing patterns seem not to have any contributory impact on the increasing incarceration of female offenders in Oklahoma. However, the only finding which may have some impacts on the increasing number of female inmates are female arrests which have been found to be on the increase.

#### Theoretical Implications

The theoretical basis of this research was derived from conflict and power perspectives. Conflict and power perspectives make several assumptions which were outlined and applied in this study. The two concepts derived from this theoretical foundation, and applied in this research are chivalry and paternalism.

Chivalry and paternalism as previously stated are two dominant concepts in criminological literature used to denote the processing of female offenders in the criminal justice system. The two competing positions which emerge from these two concepts are: first, that chivalry and paternalism have resulted in preferential

treatment of female offenders; and second, that chivalry and paternalism have resulted in harsh and punitive treatment of female offenders. This author took the later position as the basic assumption of this research.

The rationale for this position was based on the statements made by state criminal justice officials regarding female offenders, as well a reference made to the state as a "no-nonsense frontier land in the middle of Bible Belt." It was assumed that if such description is true, that state agencies, criminal justice system included, may strictly adhere to traditional attitudes and values of gender roles in their official decision-making process. The lines of gender roles may appear to be very specified and clearly drawn, and there may be certain expected behavior based on gender. Such attitudes may not only appear reflected in the making of laws and policies, but also in the enforcement of those laws and policies in Oklahoma.

If such is the situation therefore, females who deviate from those expected behaviors would be seen as engaging in behaviors which conflict with not only the expected female behavior, but also violating the standards and values held by those who have the social power to define what is deviant and what is not. As Quinney (1970) points out, criminal would be assigned to such behavior which conflicts with the interest and values of the segments of society that have the power to shape public policy. This, it was assumed, may largely account for the high percentage of female incarcerations in Oklahoma.

These assumptions however, were not supported by the results found in this research. Female offenders were found to receive an

average shorter sentence than their male counterparts in most of the offenses examined. This study also found no evidence of consistent judicial bias toward either female offenders nor feminist issues. Rather, evidence shows almost a consistent judicial bias toward male offenders who received an average longer sentence in most of the offenses examined. Also, judicial bias was found among female offenders based on race and marital status.

In view of these findings, it can be concluded that conflict and power perspectives did not fully provide a theoretical support for the problem studied. However, a partial theoretical support may have been provided for the findings on race and marital status.

#### Limitations of the Study

In every research process, there are always a variety of limitations which impinge upon the quality and authenticity of the study. In this study, some of the limitations which affect its findings are common to the research process. Due to the different types of methods used, a few limitations seemed particularly relevant to this research.

First, a bulk of the data were secondary data. Both the arrests data and sentencing data (receptions) were obtained after having already been collected by the criminal justice collecting agencies in Oklahoma. The issues of reliability and validity concerning secondary data are well known. There is always a concern about the accuracy of the data--how it was collected and who collected the data. While these concerns are well noted, however, this information

could not have been obtained any other way considering the nature and the time frame of this research.

Secondly, since this research involved the use of questionnaires, this researcher was also sensitive to issues with which survey research must deal. The first concern is usually sample size. This was not a problem because the entire judicial population was 243, and 234 of them were surveyed. One hundred and forty four (or 62%) of them responded to the questionnaires. Secondly, all survey research must deal with the issue of honesty in response. In this study, every precaution was taken to ensure the judges of their confidentiality and anonymity. Third, there is always a concern in every survey research about validity and reliability of the scales chosen, and the statistical test used for analysis. This instrument was no exception. There were some questions in the instrument which lacked clarity, and in fact some of the subjects alluded to that. But they could not be changed without altering the instrument. Overall, however, there appeared to be no problems with interpretation of survey items. Finally, as with any other research study, caution needs to be taken in generalizing findings beyond judges in Oklahoma. While the response rate shows the sample was representative of the population from which they were drawn, the opinions of the 38 percent who did not respond should not be ignored. Again, there is a concern that the judges' responses may not actually reflect their true feelings or attitudes on these issues. This concern is more so enhanced because of the fact that they chose not to express their opinions on some issues. Furthermore, the secondary

data used were a sample for only four years. Therefore, results from this study should not be generalized to any other time frame except the period examined.

The limitations described above apply to all types of studies where similar research methods are used. While recognizing that there are some limitations to be found in the study, it is the belief of this researcher that within these inevitable limitations, factual and realistic representations of the findings have been presented. Although some basic objectives of this research seem not supported by the findings, this researcher believes that the major purpose and basic concept and design of this research have been accomplished.

#### Suggestions for Future Research

While the basic underlined objective of this research seems not supported by the results, this research can and has laid a foundation for future research. This research which may have been the first of its kind in Oklahoma, can be used as a basis for generating future investigation in this area. It can provide some baselines for several types of additional research, including:

1. Including conviction records. There is a need to examine arrests records, convictions and sentencing records of male and female offenders simultaneously. The present study which primarily used average sentence length to determine differential treatment between male and female offenders has failed to prove that female offenders are treated punitively since their average sentence length generally is shorter than their male counterparts. Further

determination of the female's treatment can be made by adding, examining and comparing convictions records of male and female offenders. Evidence of differential treatment may be found by comparing the average number of male offenders convicted and sentenced with the average number of female offenders convicted and sentenced on a number of offenses.

2. The facts are that the percentage of female inmates in Oklahoma is still highest in the nation. There needs to be an extensive study of female offenders that will look into a whole range of stressors: stressors in the family, stressors at work situations, and other social-structural constraints. This can be done through an extensive interviews of female inmates.

3. There should be a study of the percentage of females incarcerated versus those treated on probation and other community-based sanctions/sentences, and compared with males in similar situations.

4. Future studies need to examine how female offenders are treated in all criminal justice processes beginning from arrest, to indictment, plea bargaining, sentencing and length of sentence given and served.

5. Although the judges' responses indicated adhering to little or no traditional attitudes and reflected no bias toward females, future study needs to explore if judges have any other reason which may motivate them into giving out different sentences to male and female offenders who committed similar offenses.

6. More research also needs to be conducted on the attitudes of police officers toward female offenders in Oklahoma. This study has found that the total female arrests have been going up. Police officers may have traditional attitudes toward females which may lead to more and faster arrests of females upon the slightest deviation.

7. Also, a study is needed comparing Oklahoma to other surrounding states-- possibly it is the other state officials, judges, police, etc. who are biased by not incarcerating more females.

#### Summary Statement

The major purpose of this research has been to determine if the increasing percentage of female incarcerations in Oklahoma was a result of differential treatment against female offenders. In order to accomplish this objective, three tasks were carried out: (1) the trends of female arrest were examined, (2) male and female sentence length was analyzed and comparisons were made, and (3) finally Oklahoma judges were surveyed to find out their attitudes toward feminist ideas and female offenders.

Results show that total female arrests and receptions increased over the four years examined. The percentage of female arrests in Oklahoma was found to be higher than the national average in most of the categories of offenses examined. This phenomenon could relate more to the high percentage of female incarcerations in Oklahoma than perhaps the impacts of judiciary decisions and practices. Results also show that female offenders seem not to be treated harshly or

punitively and in fact appear to be sentenced more leniently than their male counterparts. These findings however, may not indicate that Oklahoma judiciary are totally bias free. While no consistent evidence of judicial bias against female offenders was found, there was a strong support for judicial bias against male offenders, who received longer average sentences in most of the offenses examined. The results also generally show that judges did not seem to have traditional attitudes and bias against females. However, even with these findings, it is not clear if this is actually so. There are concerns about some of the judicial responses where they chose not to express opinions about their attitudes on those issues. Also, the judges' responses that their impression of female felons has changed in the last decade, but that it has not affected their judicial decision-making, is a concern which is held suspect.

Effects of other variables such as race and marital status were also examined to see how they impact on sentencing among female offenders. Results show that the impact of race on sentencing seemed minimal. Race has no consistent benefit on either side. Being married was found not to be an advantage to females engaged in criminal activities. Their sentences appear longer in most offenses as compared to single female offenders. However, this finding was based on comparison between single and married females. When single and divorced/separated females were collapsed and compared to married females, a different finding was reached. It was found that married females received longer average sentences for some offenses while single and divorced/separated females received longer average sentences for some offenses.



It is the hope of this researcher that the present study has not only been a contribution to the growing body of literature on how female offenders are treated by the criminal justice system, but also that additional questions and problems have been raised that will generate more in-depth research concerning this issue. While this study may not have provided a clear explanation for the increasing percentage of female offenders incarcerations in Oklahoma, there are few doubts in the researcher's mind that the way female offenders are responded to and processed do have impacts on this phenomenon. One such response may be in arrests where findings from this analysis show that the percentage of female arrests in Oklahoma is higher than the percentage of female arrests nationally in most of the categories of offenses analyzed over four years.

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**APPENDIX**

**COVER LETTER AND QUESTIONNAIRE**

July 8, 1992

Dear Your Honor:

I am a doctoral candidate in sociology at Oklahoma State University doing my dissertation project on the increasing involvement of females in criminal activities in Oklahoma. This part of my project seeks judicial opinions on the patterns and prevalence of this phenomenon in the state of Oklahoma.

Would you please help me by filling out the attached questionnaire in order to enable me conduct this research. The responses are absolutely anonymous and confidential. Please **DO NOT** put your name. Enclosed is a stamped self-addressed envelope for the return of the questionnaire.

While acknowledging your always busy schedule, I would highly appreciate it if you would take out a few minutes to fill out this questionnaire.

Your co-operation is highly appreciated.

Sincerely,

John Cross Ph.D  
Associate Professor  
Director

Sincerely,

Charles Ochie  
Graduate Student Dissertation

This questionnaire is a part of my research project intended to seek the opinions of Criminal Justice System personnel concerning the increasing involvement of females in criminal activities. The responses are ABSOLUTELY ANONYMOUS and CONFIDENTIAL, no names are required. Your co-operation is highly appreciated.

PART ONE

DEMOGRAPHIC INFORMATION

1. What is your sex?
  - 1: Male [ ]
  - 2: Female [ ]
  
2. What is your age range?
  - 1: 29 < [ ]
  - 2: 30-35 [ ]
  - 3: 36-40 [ ]
  - 4: 40-45 [ ]
  - 5: 45-50 [ ]
  - 6: 51-55 [ ]
  - 7: 56-60 [ ]
  - 8: 61-65 [ ]
  - 9: 66-70 [ ]
  - 10: 71-75 [ ]
  
3. What is your marital status?
  - 1: Married [ ]
  - 2: Single [ ]
  - 3: Divorced [ ]
  - 4: Separated [ ]
  - 5: Widowed [ ]
  
4. What is your race/ethnicity?
  - 1: American Indian [ ]
  - 2: African American [ ]
  - 3: Caucasian [ ]
  - 4: Hispanic [ ]
  - 5: Other \_\_\_\_\_ [ ]
  
5. What is your jurisdictional level?
  - 1: Municipal Court of Record [ ]
  - 2: Municipal Court (not of Record) [ ]
  - 3: Oklahoma District Court of:
    - (A) Criminal [ ]
    - (B) Civil [ ]
  - 4: Oklahoma Court of Appeals [ ]
  - 5: Workers Compensation Court [ ]
  - 6: Oklahoma Court of Criminal Appeals [ ]
  - 7: Oklahoma Supreme Court [ ]



PART TWOOPINIONS TOWARD FEMINISM

Please check in the space provided any one of the following responses: Strongly Agree, Agree, Undecided, Disagree and Strongly disagree.

	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
1. Women should have the right to compete with men for all kinds jobs.					
2. Regardless of sex there should be equal pay for equal work					
3. Women should be encouraged to become judges					
4. Women should be given equal opportunities with men for vocational training					
5. Male workers should receive higher pay than female workers since they usually have a family to support					

	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
6. Women should be encouraged to seek employment in the fields where they will compete with men.					
7. Appointments and promotions should be determined by how well a person does a job and not whether he/she is a man or a woman.					
8. Husband and wife should share household chores if the wife works outside the home.					
9. Married women should be able to withhold sex as they choose.					
10. A man has a right to expect his wife to accept his views of what the family can afford to buy.					
11. Women should feel flattered by special attention shown to them by men (i.e. opening door, etc.).					

	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
12. A single woman should be allowed to have as many sexual partners as she desires.					
13. A woman who asks a man for a date is being bold.					

**PART THREE**

**JUDICIAL OPINIONS**

Please answer Yes, No, or No Opinion to the following questions.

1. Is the incidence of female crime changing?

1: Yes [ ]  
 2: No [ ]  
 3: No opinion [ ]

2. Are women engaging in more crime now than before?

1: Yes [ ]  
 2: No [ ]  
 3: No opinion [ ]

3. What kinds of crime are they committing now\_\_\_\_\_

4. Is it accurate to talk about "masculine" and "female" crimes?

1: Yes [ ]  
 2: No [ ]  
 3: No Opinion [ ]

5. Has your impression of female felons changed in the last decade?

1: Yes [ ]  
 2: No [ ]  
 3: No opinion [ ]

6. Is the contemporary female felons more aggressive today than in the last decade?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
7. Do other judges see females in more aggressive light?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
8. Is the women's movement responsible for the change in the behavior of female felons?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
9. Are female offenders getting lenient sentences?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
10. Have you been noticing an increasing load of female cases in your court?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
11. If you answered "yes" to the above question, have your sentencing decisions been influenced in any way by this increasing load?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
12. Do you think that female crimes are getting more dangerous?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
13. Do you think that females benefit more from longer prison rehabilitation than the males?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]
14. Do you think that women generally are treated harshly by the Criminal Justice System?
- 1: Yes [ ]  
2: No [ ]  
3: No opinion [ ]

15. Do you think women in prison are treated harshly?

1: Yes [ ]

2: No [ ]

3: No opinion [ ]

16. Are women better prospects for probation and parole than the males?

1: Yes [ ]

2: No [ ]

3: No opinion [ ]

VITA 2

CHARLES ONOCHIE OCHIE, SR.

Candidate for the Degree of

Doctor of Philosophy

**Thesis:** FEMALE OFFENDERS AND THE CRIMINAL JUSTICE SYSTEM: EXAMINING THE PATTERNS OF DIFFERENTIAL TREATMENT OF FEMALE OFFENDERS IN OKLAHOMA

**Major Field:** Sociology

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**Personal Data:** Born in Aguleri, Anambra Local Government Area, Nigeria, August 12, 1957, son of Mr. and Mrs. Mark Udevi Ochie; married June 30, 1990, to the former Chinelo Degirl Ezukanma; two children: Ijele Honor, born March 25, 1991; Charles Onochie, Jr., born July 24, 1992.

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