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A FEMINIST ANALYSIS OF PAROLE DECISION-MAKING

by

MARTIN S. SILVERSTEIN

1987

SUBMITTED TO THE DEPARTMENT OF CRIMINOLOGY,
UNIVERSITY OF OTTAWA, IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS



Martin S. Silverstein, Ottawa, Canada, 1988.

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CHAPTER I

INTRODUCTION

One of the primary tenets of justice is that everyone has the right to equal protection and equal benefit of the law without discrimination (Greenspan, 1983). While some, who look at the operation of the system from a functionalist viewpoint believe this to be so because the legal machinery is a neutral enforcer of laws (Merton, 1957), others who look at it from a conflict perspective do not agree. They claim that a few individuals with economic power control the criminal justice system and use it to protect and benefit themselves at the expense of the individuals who do not have economic power (Brickey, 1978). In this latter group are feminists who claim that the criminal justice system is a vehicle for males to institutionalize their supremacy and subordinate women (Mackinnon, 1985). They support this claim with reference to the non-interventionist policies followed by police in wife battering cases. When a man is assaulted, they point out, the police always tend to lay charges against the assaulter, but when a woman is assaulted the situation is euphemistically referred to as a social problem especially when the assaulter is the husband and no charges are laid

3 (Mackinnon, 1985). Prosecutors and judges have also responded to wife battering as a social rather than a criminal problem (Crites 1978, Stanko 1982). The differential treatment afforded men and women who are assaulted, feminist theorists claim, stems from extant societal values - values that consider men supreme beings and women subordinate ones (Martin, 1976).

Feminist analysis has also pointed at the manner in which the criminal justice system has dealt with the crime of rape; essentially protecting men and blaming women (Clark and Lewis, 1977). In the crime of rape the onus has been on the victim to prove non-consent, an integral element in the crime, while in all other crimes, non-consent was assumed and the onus was on the offender to prove consent as a defence (Decrow, 1974). The feminist perspective suggests that police, prosecutors, and judges seem to believe that all women want to be raped, that no woman can be raped against her will, that women are asking for it, and that if a woman is going to be raped, she might as well relax and enjoy it (Brownmiller, 1975).

Basically what the feminist approach claims is that women are discriminated against in the criminal justice system because they are looked upon as inferior beings in dealing with whom the normal rules need not be applied. This claim could be subjected to empirical testing. The manner in which the various segments deal with male and female offenders

could be compared, as they have, to establish differential treatment. But such comparisons cannot attribute the differential treatment to the belief of male superiority and female inferiority, except with the aid of some dubious logical process. An alternative test would involve the comparison of the treatment accorded male offenders who victimize males and male offenders who victimize females. As the severity of the punishment meted out is considered an indication of the gravity of the offence, it could be hypothesized that the male superiority/female inferiority belief would lead to the infliction of a more severe punishment on male offenders victimizing males than on male offenders victimizing females. It is this hypothesis that the study seeks to test, in the context of the parole decision-making process.

The analysis of parole decision-making will be undertaken with an examination of National Parole Board decisions in which male offenders committed manslaughter. The decisions in cases where a female was a victim will be compared to the decisions where a male was the victim. The feminist perspective would expect the Board to be more lenient in granting parole to males who victimize females than to males who victimize males.

However, a finding that the National Parole Board is more lenient in granting paroles to male offenders who commit crimes against female victims is not in itself enough to

support the feminist perspective. The leniency could stem from a number of extraneous factors. A prime consideration in the parole decision-making process is the likelihood of recidivism. On this basis it could be claimed that the circumstances in which a male kills a female - usually a domestic homicide - are unlikely to recur, while the likelihood of the circumstances in which a male kills a male could well present themselves again.

The response to this argument on a conceptual level is that men who commit manslaughter against their common-law-wives are just as big a risk to commit crimes against other women with whom they have relationships. However, the proof is in the testing, and in order to support this conceptual analysis it will be necessary to look further at the actual parole decisions. An attempt will be made to determine whether the relationship between the offender and the victim is a factor in parole decision-making. A finding that there is a differentiation on the part of the parole board members between crimes committed against men and those committed women, and a further finding that a prior relationship between the offender and the victim does not account for this difference, may indicate that the National Parole Board devalues women.

Then, also considered in the parole decision-making process are the age of the offender, the length of the sentence,

the proportion of the sentence served, the previous criminal record, the previous violent criminal record, and significant crime-free periods. A finding that there is a differentiation on the part of parole board members between crimes committed against men and those committed against women, and a further finding that none of these variables accounts for this difference, should indicate that the National Parole Board inflicts more severe punishment on male offenders victimizing males than on male offenders victimizing females.

In summation, the hypothesis of this thesis is that the National Parole Board institutionalizes male supremacy and subordinates women. An attempt will be made to see whether the Board is more lenient to male offenders who commit the crime of manslaughter against women than it is toward male offenders who commit the crime of manslaughter against men. An effort will be made to determine whether these decisions are based on discrimination against women and not based on the relationship between the offender and the victim, the age of the victim, the length of the sentence, the proportion of the sentence served, the previous criminal record, the previous violent criminal record, or significant crime-free periods. A finding that the National Parole Board discriminates against female victims will support the feminist perspective of the criminal justice system.

Chapter Two of this thesis reviews the literature on

the purposes of parole and the factors that should be taken into account in parole decision-making based on these purposes. The chapter goes over studies that have been undertaken to determine empirically the basis for parole decision-making and the factors revealed in these studies as having a bearing on parole decision-making. The examination of the purposes of parole and the empirical studies show that there are no definitive conclusions as to the factors in parole decision-making. Is it the use of the wrong statistical technique and/or the testing of the wrong variables that have resulted in the failure of a definitive conclusion about the factors in parole decision-making? Perhaps sufficient consideration has not been given to the factor of gender in parole decision-making.

Chapter Three looks at the different studies - what they sought to do, the period covered, the institutions covered, the method of data collection, and method of data analysis. The method of the present study is also outlined in this chapter - what the thesis is trying to do i.e. test the hypothesis that the sex of the victim plays a dominant role in the grant of parole, how the thesis will test this hypothesis, the variables the study controls for and why, the sample, and how the data is to be collected.

Chapter Four presents data on the effect of the sex of the victim in the parole decision-making process. Also

presented are data on other variables that might affect the parole decision. These other variables are then presented, one at a time, as controls in considering the effect of the sex of the victim on parole decisions. The Chi-square test is applied to the data to determine whether there are statistically significant relationships that suggest a negative bias by the National Parole Board towards females.

Chapter Five reviews the purpose, the hypothesis, the methodology, the results, and the implications of the study.

CHAPTER II

A REVIEW OF THE LITERATURE

Purposes of Parole

Since parole was originally introduced as a means of dealing with offenders there have been many elaborations of its purpose. The United States Department of Justice (1939) noted that the basic purpose of parole was to bridge the gap between the closely ordered life within the prison walls and the freedom of normal community living. The United Nations (1954) said the aim of parole was the non-institutional treatment of offenders. The Government of Canada (1956) reported that parole offered an opportunity for the practical application of rehabilitation programmes prior to the expiration of sentence and that the prospect of parole stimulated the inmate to derive maximum benefit from the facilities provided by the prison as preparation for parole, that is educational, vocational, religious, recreational, and other services furnished by the institution. The Parole Act (1958) stated that the National Parole Board could grant parole to an inmate who had derived the maximum benefit from imprisonment and the reform and rehabilitation of the inmate would be aided by the grant of parole. Gottfredson *et al.* (1973) observed

that the goals of the United States Board of Parole were protection of the public, the release of inmates at the optimal time for the most probable success on parole, and the improvement of inmate adjustment in the community after release. The Government of Canada (1974) said that the purpose of parole was not clemency, sentence review, nor population management but the timing of inmate release to achieve both the maximum social protection and the optimum benefit to the offender in his social reintegration. The Parole Act (1979) read that the National Parole Board could grant parole to an inmate who had derived the maximum benefit from imprisonment, that the reform and the rehabilitation of the inmate would be aided by the grant of parole, and that the release of the inmate would not constitute an undue risk to society. The Solicitor General (1985) noted that the chief objective of parole has always been public protection. According to the Solicitor General anything that could be done to "tighten up" on the violent offender, especially anyone who had demonstrated repeated violence was the responsibility of the National Parole Board. On the other hand, in his view, the earlier release of low risk offenders would not only provide some relief to the overcrowding problem but would also provide new opportunities for rehabilitation and restitution. Finally, it was the position of the Solicitor General that there were a number of persons in jail who did not require incarceration.

On the basis of the purposes of parole, there are a number of factors that should be taken into account in parole decision-making. These are rehabilitation, participation in prison programmes, protection of the public, sentence review, management of prison populations, and restitution.

Empirical Studies

Since earliest times studies have been undertaken to determine empirically the basis of parole decision-making. Warner (1923) analyzed the statistics of the Massachusetts Department of Corrections. He concluded that the Board of Parole did not act upon its established criteria. These criteria were: (1) whether a man had profited by his stay in the institution, and had so far been reformed as to be unlikely to commit another offence, (2) his conduct record while in the institution, (3) whether a man had suitable employment awaiting upon release, (4) whether he had a home or proper surroundings, (5) a man's ability to tell the exact truth when interviewed by the Board, (6) the seriousness of a man's offence and the circumstances surrounding it, (7) his previous record, (8) the appearance which a man makes before the Board in applying for parole, and (9) behaviour on former parole. Warner found that instead of acting upon its established criteria, the Board of Parole acted on the

premise that prisoners should not be kept longer in a reformatory than in a state prison and the Board of Parole acted on its "great faith in parole". In spite of the large number of parole violators, the Board paroled freely in the expectation that some persons would be saved by parole and that the damage done by others would be relatively small.

Gottfredson et al. (1973) attempted to define parole objectives and to define information needs. State parole systems, the District of Columbia Board of Parole, and the National Parole Board contributed data on a parole opinion survey aimed at providing information on perceived objectives and information needs of the paroling authorities. Federal and state paroling authorities agreed in rating three suggested goals as most important. These were: (1) protection of the public, (2) the release of inmates at the optimal time for most probable success on parole, and (3) the improvement of inmate adjustment in the community after release. The kinds of information thought to be important to parole board members in making individual case decisions were the adequacy of the parole plan, the presence of a past record of assaultive offences, the offender's present family situation, and the attitude of the inmate's family.

Waller (1974) analyzed data of the National Parole Board by comparing the means between parolees and discharges for a number of variables using the t test. He reported no significant

differences between the groups for the variables 'older at release' and 'employed on admission to the penitentiary'. He found significant differences for parolees admitted to the penitentiary later, married/had more dependents, less use of drugs, and more skilled job in the penitentiary. Waller observed highly significant differences for parolees convicted of a more serious offence/not returned as a parole violator, higher grade, held the job less long in the penitentiary, less offences against staff in the penitentiary, less offences without a victim in the penitentiary, and fewer months in training, if taken, in the penitentiary. He noted significant differences for parolees with fewer prison commitments to adult institutions/ less likely to have been to a jail, reformatory, or penitentiary; and longer aggregate sentences; t tests bore out that such variables as weight, race, and religion did not differentiate parolees and discharges.

MacNaughten-Smith (1976) studied decisions by the National Parole Board to grant or to deny parole to male inmates of Canadian penitentiaries. He drew data from files of parole applicants kept by the National Parole Board. MacNaughten-Smith applied the Chi-square test to a large sample in order to determine the significant factors in parole decision-making. He coded and recorded available information, then he dichotomized all the file variables, and then he carried out a Chi-square test on every dichotomy. MacNaughten-Smith rank ordered

according to source of information all dichotomies that were statistically significant. He found that the sources of information in descending order of importance were: (1) parole service, (2) custodial reports, (3) Royal Canadian Mounted Police, (4) classification reports, (5) admission forms, (6) application by inmate, and (7) various police forces. In order to distinguish the importance of the information from the source of the information, MacNaughten-Smith carried out a two-way analysis of variance on the rankings to determine to what extent variance was accounted for by importance or source of information. From this analysis, according to MacNaughten-Smith, it appeared that attention was not paid to item but to the source.

Heinz et al. (1976) analyzed decisions of the Illinois Parole Board. He found that decisions of the Board were associated with inmate's commitment offence, the number of prior offences, participation in educational programmes while in prison, the inmates's record of infractions of the prison's rules, his or her prospects for employment after release, marital status and the number of dependents, with age, and (perhaps) with measures of intelligence. On the other hand, he found no significant correlation of the parole decision with seriousness of prior offences, with the length of sentence the inmate was serving, with the number of previous hearings on the parole decision, with inmate's prison work assignments

or participation in vocational training programmes, nor with the sex of the inmate. According to Heinz and his colleagues, it was highly difficult to determine whether the inmate's race had an independent effect on the parole decision.

Carroll and Mondrick (1976) studied files on inmates from the Eastern Correctional Institute in the United States appearing before the parole boards. They analyzed their data by correlation and multiple regression techniques. They found that the number of disciplinary reports in the previous year, psychiatric recommendations, custody level, and participation in treatment programmes were significantly related to parole. Carroll and Mondrick noted a negligible correlation between the prisoner's race and the decision of the parole board. However, they found that while participation in treatment programmes was not significantly related to the parole of white prisoners, it was a highly significant factor affecting the parole of black inmates. They concluded from this latter finding that there was a clear indication of racial bias in the decisions of the parole board.

Nuttall (1977) examined the relationship of twenty-two variables derived from parole dossiers for 878 men considered at first review and 804 men considered at second or subsequent review. He reported that the number of previous commitments, intended living arrangements on release, and length of sentence were found to be important variables in decision-making at

first review. Nuttall observed that living arrangements on release was the most important variable in the decision-making at second or subsequent reviews.

Carriere and Silverstone (1977) reviewed the files of 73 inmates in the Ontario region of the Correctional Service of Canada and they also attended National Parole Board hearings. From the cases they studied and observed in the Ontario region, Carriere and Silverstone found that release plans, personality problems, maturity, personal resources, established delinquency, danger to society, and institutional performance emerged as the parole decision-making criteria. They also reviewed the files of 97 inmates in the Quebec region and attended their parole hearings. From the cases in the Quebec region, Carriere and Silverstone found that release plans, established delinquency, personality problems, danger to society, personal resources, and maturity were critical for parole board decision-making. Carriere and Silverstone suggested that parole board members seemed to have individual parole philosophies to guide their deliberations with the result that in many cases their decisions appeared to be made almost intuitively.

Demers (1978) utilized multivariate analysis to isolate key explanatory variables in the parole selection process and to estimate their impact on board decision-making. The study highlighted the crucial role played by the parole officer

in the selection process. This factor alone accounted for slightly more than three-quarters of the final disposition of parole applicants. The evidence also indicated that parole officers were more likely to recommend parole applications submitted by whites as compared to those tendered by native inmates.

Gottfredson (1979) used regression analysis to study data from the United States Board of Parole. The sample in the study included 2833 random releases by the Board of Parole in 1970, 1971, and 1972. The variables in the study included length of sentence, time-served, a wide variety of personal characteristics, prior record information, current offence information, number of prison punishments, and escape history. Gottfredson found a high correlation between the length of sentence and time served, a low correlation between escape history and time served, a low correlation between assaultive institutional infractions and time served, and a low correlation between prison punishment and time served.

Madden (1980) attended Ontario parole board hearings and interviewed board members to determine parole decision-making criteria. He also recorded data from inmate parole files. Madden then analyzed the data through two-way contingency tables. He found that release plans were one of the most critical factors considered by the board. Prior criminal record was an important factor in parole decision-making.

It was difficult, however, to ascertain the specific aspect of the criminal record that was important to the respective board members. The current offence was an important factor in parole decision-making but it was difficult to isolate the exact aspects of the offence considered by the respective board members. Drug and alcohol use was an important consideration in the board's decisions while institutional performance was not found to be an influential factor. Madden noted that age, race and socio-economic status appeared to be dealt with more as background factors to judge the more directly relevant issues.

Nuffield (1982) analyzed National Parole Board data using multiple regression analysis and predictive attribute analysis. In the multiple regression analysis none of the variables were a strong predictor of the proportion of the sentence served although more important factors were: (1) number of previous imprisonments, (2) number of previous escapes, (3) age at time of admission, (4) employment status, and (5) previous breach of parole supervision. The seriousness of the offence, a ranking obtained from the average length of sentence awarded by the courts for every major offence type was apparently unrelated to the parole decision. The first and most significant factor revealed by the predictive attribute analysis was the security status of the inmate.

Shewan (1985) analyzed data on parole releases and mandatory

supervision releases for the period 1971-1975. He noted that in 1971 the National Parole Board granted 55% of federal parole applications and in 1975 the Board granted only 32% of federal parole applications. Shewan suggested that the external pressures of highly publicized parole failures in 1969 and 1970, the creation of a Senate Committee to examine the workings of the National Parole Board, and the formation of a government task force in 1972 to assess inmate release programmes placed the members of the Board in a defensive position. He further explained that although mandatory supervision was enacted to complement the parole programme, the Parole Board may have used it during the period 1971-1975 as a rationale for denying parole while still providing supervision prior to the expiration of sentence.

The empirical studies reveal that parole board members' "great faith in parole" (Warner, 1923), nature of the offence (Gottfredson 1973, Waller 1974, Heinz et al. 1976, Madden, 1980), amount of time served (Waller 1973, Nuttall 1977, Gottfredson, 1979), past record (Gottfredson et al. 1973, Heinz et al. 1976, Madden 1980), institutional performance (Waller 1974, Carriere and Silverstone 1977), number of previous commitments (Waller 1974, Nuttall 1977), use of drugs (Waller 1974, Gottfredson 1979), age at admission (Waller 1974), recommendation of the parole officer (MacNaughten-Smith 1976, Demers 1978), race (Carroll and Mondrick 1976, Demers 1978),

security level of the inmate (Nuffield 1982), and political climate (Shewan 1985) are factors that have a bearing on parole decision-making.

Warner (1923) found a positive relationship between parole board members' faith in parole and the granting of parole. Gottfredson (1973), Heinz et al. (1976), Nuttall (1977), Carriere and Silverstone (1977), and Madden (1980) discovered that the better the parole plan the higher the chances of parole. Nuttall (1977) and Gottfredson (1979) demonstrated a positive relationship between the amount of time served and the granting of parole. Waller (1974) and Carriere and Silverstone (1977) showed a positive relationship between institutional performance and the granting of parole. MacNaughten-Smith (1976) and Demers (1978) demonstrated a positive relationship between parole officer recommendations and parole decisions. Carroll and Mondrick (1976) and Demers (1978) revealed that white people were more likely to be granted parole than black people. Gottfredson et al. (1973), Heinz et al. (1976), and Madden (1980) discovered a negative relationship between the number of previous convictions and the granting of parole. Waller (1974) found a negative relationship between the amount of time served and the granting of parole. Waller (1974) and Nuttall (1977) showed a negative relationship between the number of previous institutional commitments and the granting of parole. Waller (1974) found a negative

relationship between the age at admission and the granting of parole. Nuffield (1982) showed a negative relationship between the security level of the inmate and the granting of parole. Shewan (1985) found a negative relationship between an increasingly conservative political climate and the granting of parole.

It is apparent from the studies that there is no definitive conclusion as to the factors in parole decision-making. The possible failure of a definitive conclusion may be the use of the wrong statistical technique and/or the testing of the wrong variables. The variables tested in parole decision-making studies appear to have been based on an analysis of parole purpose. Therefore, these variables have been based on rehabilitation factors and protection of the public factors.

A Feminist Perspective

In the empirical studies consideration had not been given to the structure of society and the influence that this has on decision-making. Currie (1986) says that a distinctly feminist criminology combines the historical involvement of women in the criminal justice system with an understanding of the oppression of women. According to Currie, the beginning of such a "scientific" investigation is a description of the phenomenon to be explained. Then the investigation addresses

the two-fold power structure characteristic of women's oppression, namely patriarchal and economic power. Patriarchy underlies a particular type of household organization characteristic of family centred economics such as feudalism. Within this relationship the male head of the household appropriates the labour of other household members. This relationship is codified in "patriarchal" laws and the structured inequality is legitimated by ideologies stressing the innate inferiority of women and the natural superiority of males. Currie says that economic power refers to the historically specific form of economic power in contemporary Western societies. In this relationship the contractor of wage labour, the capitalist, appropriates the surplus values of labour power. This relationship becomes codified in "bourgeois" laws and the structured inequality is legitimated by ideologies of democracy and equity before the law. Capitalist exploitation and competition entrenches a sexual division of labour in both the workplace and the home which fosters sexist ideologies. The industrial sphere is characterized by a male labour force. The domestic sphere is characterized by unpaid labour for women within the home and the increased dependence of women on a male "family wage". In advanced capitalism the labour of women is gradually converted into capitalist wage labour and control over the reproductive and productive capacity of women is relocated from private

patriarchal families to a public paternalism of the state.

Empirical support for the feminist position comes from studies dealing with female victims of crime. Martin (1978) points out that wife beating is a crime just as any other crime that constitutes bodily harm: assault and/or battery, aggravated assault, intent to assault or to commit murder. Martin finds, however, that the law is not necessarily applied when the parties involved are husband and wife. A large percentage of the calls received by police are domestic disturbance calls but the police do not differentiate between family "squabbles" and incidents of violence. They seldom make arrests in either case. Police officers were usually directed by their superiors to avoid making arrests in domestic disputes except in cases of severe injury. They are told to be mediators and peacemakers rather than law enforcers. Implicit in these directions is a trivializing of wife beating even though it has been shown in their own experience and that of researchers that these beatings, when unchecked, become more and more severe as time goes on. Martin observes that district attorneys often do not follow through on wife battering cases. Martin also notes that judges have a tendency to dismiss marital violence as family quarrels. If they find the husband guilty, more than likely they let him off with a suspended sentence, probation, or a small fine. Martin recommends that when the police receive domestic disturbance calls in which

violence or threat of violence is reported, they must give them top priority. Dispatchers should be specially trained in distinguishing wife-beating calls from nonviolent family hassles. The husband should be viewed as a possible criminal suspect and when possible, man-woman police teams should be sent out on marital violence calls. Martin supports the promotion of a pro-arrest policy. Martin also supports class action suits by wives/victims such as the one in federal court against the Oakland Police Department and the other in state court against the New York City police and the Family Court clerks and probation officers because of their failure to provide protection to battered wives.

Gates (1978) reports that traditionally police training in "domestic disturbances" has stressed arrest avoidance and adjustment through mediation and referral. Prosecutors in the United States during the 1970s were disposing of most wife beating cases through referrals to social services and in cases which they did take before the courts, prosecutors were not providing sufficient information concerning the gravity and the history of the wife beating. Judges were also indiscriminately referring hard core cases to marriage counselling and social services rather than to jails.

Tong (1984) observes that largely as a result of feminists' efforts to draw attention to wife batterers, police departments are increasingly adopting two new approaches to woman battering:

(1) the "crisis-intervention" and "conflict-management approach", or (2) the "pro-arrest" approach. Tong says that while feminists agree that arbitration, mediation, and negotiation between volatile family members are sometimes worthwhile objectives, feminists do not agree that families always want to stay together or that it is in their best interest to do so. Because arbitration, mediation, and negotiation are not universal panaceas for women battering, feminists currently favour a pro-arrest policy in those areas where the battered woman expressly requests that her batterer be arrested. Tong suggests a number of feminist responses to limitations in criminal remedies to wife battering including: (1) litigation against prosecutors and litigation against police, (2) development of laws and policies to deal specifically with wife battering, and (3) co-operation between "women-centred" police officers, prosecutors and directors of battered women's shelters and crisis helplines.

Status of Women Canada (1985) reports that crown attorneys are further victimizing battered women by forcing them to testify against their husbands. Status of Women Canada notes that the courts have recourse to indefinite incarceration until the battered woman recants at the preliminary hearing stage and that the courts have recourse to the Common Law power of contempt of court at the trial stage. Status of Women Canada proposes that specially qualified prosecutors

be employed in wife assault cases and that there be extensive witness preparation to bolster battered wives against the rigours of cross examination.

Edwards (1985) observes that historically in England marriage has provided husbands with the right to beat their wives. In the nineteenth century male judges appointed by male governments chosen by exclusively male electorates were punishing male offenders in a most inadequate manner, holding a woman's life at a lesser value than a purse containing a few shillings. In the mid-nineteenth century courts were upholding a husband's right to beat his wife. In cases in which a man killed his wife he could be charged with manslaughter and be sentenced to a fine or a few months in prison. On the other hand, if a wife killed her husband she would be punished as if she had killed the king. In the late nineteenth century the courts enshrined the doctrine of provocation. The courts were willing to accept any number of reasons for a husband battering his wife including a bell not answered with the required promptitude, a dinner somewhat late or badly cooked, a pair of slippers not to be found when wanted, a book carried off, or a set of papers disarranged. In 1890 the common law right of the husband to beat his wife was abolished.

McCann (1985) studied the impact of 1976 legislation that permitted the courts to exclude a battering husband

from the matrimonial home. She looked at magistrate's courts in Leeds, Sheffield, and Manchester during the period 1979 to 1980. After interviewing twenty-eight battered women, McCann found that restrictive judicial interpretation of the legislation worked against improving women's safety. She also found that police failed to define wife assault as a crime. Relying on the dominant ideologies of family life, privacy, and sanctity, police used the terms "domestic", "marital", and "family dispute" to explain their inaction. McCann concluded that legislative rights for battered women were not enforced by the courts and the police, and that changes in law had to be accompanied by changes in values in the courts and the police departments.

Feminist analysis has also pointed out the manner in which the criminal justice system has dealt with the law concerning the crime of rape. Schwendinger et al. (1982) notes that the Roman conception of rape was as a property crime rather than as a sexual violation. For the Romans the crime of rape was legally committed against the victim's father, guardian, or husband. In the seventh century feudal laws paralleled Roman laws. In the ninth century rape continued to be viewed as a property crime; however, payment of restitution was made to offended women. In early states rape law was used for the profit of the state as persons committing the crime of rape had to pay fines to the state. From the twelfth

to the fourteenth centuries rape involved abduction, coitus, violence, and lack of free consent on the part of women. During the sixteenth and seventeenth centuries a white man could rape his black female slave without punishment in the United States. In British New Guinea in the early twentieth century black women were not protected from rape by white men. During early capitalism rape was defined as a crime against individual women so long as the rapist was not the husband. The development of the doctrine of coverture maintained that the husband was the supreme authority in family life and allowed the husband to enforce his authority through violence and corporal punishment. The denial of the married woman's rights was grounded in the consolidation of property that favoured even greater capital accumulation for the husband.

Box (1983) writes that married women raped by their husbands are excluded from British rape laws. He says that the majority of legislative changes in Britain have only covered legally separated couples not living together. Even the few cases that prosecutors have chosen to pursue under these legislative changes have not enjoyed a high success rate. Box points out that rape laws focus only on vaginal penetration and ignore anal and oral penetration, or relegate them to acts of indecent assault. He says that feminists want the concept of rape broadened to make it

non-orifice and non-instrument specific. Feminist writers also want a re-examination of the concept of consent, possibly with the intent of shifting from "without the victim's consent" to "coerced by the offender". In Britain the law in practice is primarily concerned with sexual access achieved by the means of actual or threatened violence which in turn is considered by legal practitioners to constitute proof that consent did not take place. Box points out that there are many instances of female sexual victimization where actual or threatened physical violence is absent and where the conditions for genuine consent are also absent. A female can be threatened by economic and social violence: she may be threatened with job loss, demotion, transfer to an unpleasant location, or loss of promotion chances, she may be threatened by loss of affection, supportive relationship, or the promise of marriage being withdrawn, she may be threatened by males who have the power to stigmatize her, as when for instance a policeman can offer her non-arrest for herself (or a close relative) in return for sexual favours.

Schram (1978) reports that during the years 1973-1976 new rape legislation was enacted in the United States in thirty-six states and proposed in an additional thirteen states. The majority of these legislative changes took two forms: (1) adoption of new and wider definitions of rape and (2) relaxation of the proof requirements for the

crime. Rape was redefined in terms of sex-neutral assault or battery, with several degrees based on the dangerousness and the circumstances of the assault. In many states corroboration requirements were eliminated or minimized. Many legislatures restricted the admission of evidence of the victim's prior sexual conduct and eliminated both the cautionary instruction to the jury that the testimony of the victim was suspect and the chastity instruction that permitted the jury to infer that a woman who had consented to sexual intercourse was more likely again to consent to sexual intercourse.

Tong (1984) reports that Marxist, liberal, and existentialist feminists agree with reforms to subsume rape under assault laws. In the opinion of many feminists, the major advantages of such a redefinition of rape are: (1) it eliminates residual corroboration rules, (2) it lowers the overly high age of consent for sexual intercourse, (3) it eliminates as admissible evidence the victim's past sexual history, (4) it eliminates the marital-exception rule, and (5) it reduces the penalties for rape.

Status of Women Canada (1985) reports that legislative changes in Canada have resulted in rape laws being subsumed under sexual assault laws. The objectives of the changes have been twofold: (1) the minimization of victimization of the complainant by the legal system, eg. are complainants being questioned about irrelevant physical details and sexual history and is their privacy being respected?, and (2) the

improvement of reporting, prosecution, and conviction rates for sexual assault. Status of Women Canada recognizes, however, that from a feminist perspective, there are still a number of concerns. These concerns include: (1) the meaning of the term "sexual", (2) the mistake of fact defence and the nature of consent generally, (3) the significance of violence, (4) the scope of the concept of "exercise of authority", and (5) implied consent.

Another area in which the feminist analysis deals with the criminal justice system is law enforcement in sexual assault crimes. Tong (1984) says that the image of women as lying temptresses has been projected into Western religious thought. According to this image women are the temptresses and the seductresses who destroy men's innocence. Tong reports that despite the abnormal fear on the part of the police of the false complainant, feminists observe that all available evidence contradicts this unfounded fear. According to Tong studies show that fifteen to twenty percent of rapes are labelled as false by police questioning; however, when police women or trained rape investigators take reports only two to three percent are exposed as false, a rate that resembles that for all other violent crimes. Tong points out that the few complaints that are false can easily be screened out by prosecutors. Tong concludes that men are not falsely convicted of rape more than for any other crime.

Box (1983) reports that in England and Wales in 1981 only a small percentage of rapes are reported. He says that rape victims are discouraged from reporting their crimes because police often conclude that the victims are making unfounded allegations. Box observed that in rape crimes the crown plea bargains for the lesser sexual crime of indecent assault. He found that more than half of the convicted rapists were jailed for three years or less and that with good behaviour, parole, and remission, the majority of imprisoned rapists were back in the community two years after leaving it.

The Solicitor General Canada (1985) victim survey indicated that some incidents perceived by women to be serious and threatening were not treated as such by the criminal justice system. According to the Solicitor General Canada the reason many women refused involvement with the legal system was the strong belief that such involvement would only add to their trauma. Police have been accused of inflicting a "second victimization" on rape victims who came to them for assistance. Female victims of sexual assault who sought the assistance of the police were more critical of police case-handling than any other victims. Female victims of sexual assault were more likely than other victims to give police a "poor" rating on keeping them informed on the progress of their case, on the courtesy they displayed toward the

victim, and on their overall performance.

Gregory (1986) outlines the ways in which reformist feminists, radical feminists, and socialist feminists respond to injustices against women within the criminal justice system. "Bourgeois" feminists have drawn attention to the denial of civil liberties that occurs within the criminal justice system whenever those who come under its scrutiny are treated differently on the basis of sex. Their goal is sexual equality; their strategy is to eliminate sexual ideology from the legal system. Radical feminists' major contribution to criminology is on the issue of how to protect women from the more extreme manifestations of male power, particularly domestic violence, rape, and pornography. The radical feminists lean heavily towards the introduction of more punitive measures against the perpetrators of these particular crimes. Socialist feminists would seek to eliminate oppression on men and women engendered by gender and class relations.

Bertrand (1985) finds that women's groups have contributed towards the emergence of a public will regarding severe penal sanctions for rapists. For Bertrand the proposal that calls for imprisonment and exemplary castigation of rapists is an untenable response to the problem of rape. Bertrand wants to eliminate oppression for men and women and sees penal sanctions for rapists as further oppression

of men. She proposes that feminists oversee the establishment of sex education courses and that men and women be taught about their sexual freedoms. Bertrand says that men should be helped to enter into relationships by means other than brute force or by avoiding women who confront them, take issue with them, compete with them, or outmatch them.

The feminist perspective provides an understanding of the criminal justice system, particularly in the area of female victims of crime. One area of promising investigation with regard to parole decision-making consequently is the role that the gender of the victim plays in the process. Under feminist theory it could be hypothesized that the parole board is more lenient in granting parole to males who victimize females than to males who victimize males.

CHAPTER III

METHODOLOGY

Introduction

The information contained in this chapter is integrated in such a way that the methodologies of the various parole decision-making studies are presented first, then the methodology of the present study is presented. The various studies will be reported in terms of what they sought to do, the sample, the time period, the institutions, the method of data collection, and the method of data analysis. The present study will be covered in terms of what it is trying to do, the sample, the control variables, the method of data collection, and the method of data analysis.

The Various Studies

Warner (1923) sought to differentiate the statutory criteria for decision-making, the "official" criteria used by the Board of Parole in Massachusetts, and the criteria actually used by the Board. He investigated the records of 680 persons sent to the Reformatory. Three-hundred of the persons were parole successes, 300 were parole violators, and 80 prisoners were not paroled. The cases were examined

between 1912 and 1920. Warner then correlated the information at the disposal of the Board of Parole with success or failure on parole.

Gottfredson et al. (1973) aimed to develop, test, and demonstrate programmes of improved information for decision-making by providing objective and relevant information for individual case decisions, and by summarizing experience with parole as an aid to improved policy decisions. He collected his data by conducting questionnaires, group discussions, and individual interviews with state parole boards, the District of Columbia Board of Parole, and the National Parole Board. Gottfredson also studied 50% of all persons considered for parole between November 1, 1970 and October 31, 1971. His study further included persons paroled in fiscal year 1968 (43 offenders) with a two year follow-up study, persons paroled in 1966 (270 offenders) with a three year follow-up study, and persons sentenced under the Youth Corrections Act and paroled in fiscal year 1969. Other methods to collect data included simulated experiments such as "information boards" and random access slide projectors. Gottfredson analyzed his data by correlation and multiple regression techniques.

Waller (1974) sought to compare the characteristics of inmates who were paroled from prison and inmates who were discharged from prison. He looked at 423 inmates who

were released from certain Ontario federal penitentiaries during 1968 and continued to chart their performance for up to three years following their release. Two-hundred and thirteen inmates were released at expiration of sentence and 210 inmates were released on parole. Waller obtained data on the previous careers of the sample from penitentiary files. He also conducted interviews with the inmates after their first month, sixth month, and twelfth month in the community. Waller analyzed his data by using the t test to compare those paroled with those discharged in terms of pre-release variables.

MacNaughten-Smith (1976) wanted to determine the factors in parole decision-making. He thoroughly reviewed 15 National Parole Board files to find out the information contained in them. He then reviewed 832 files for parole applicants that were kept in Ottawa by the National Parole Board for the period January 1, 1962 and December 31, 1964. MacNaughten-Smith dichotomized the information contained in the files and analyzed the information using the Chi-square test. He rank ordered, according to source of information, all dichotomies with X^2 greater than 6.635. The rank orderings of the sources of information were statistically tested by the Kruskal and Wallis' Non-Parametric One Way Analysis of Variance. MacNaughten-Smith then carried out a two-way analysis of variance on the rankings to determine to what

extent the variance was accounted for by the information or the source of the information.

Heinz et al. (1976) sought to determine the factors in parole decision-making by the Illinois Parole Board. They looked at 294 cases from the Master Record Files of the Illinois Department of Corrections for the period 1970-1972. Heinz and his colleagues then analyzed their data using multiple regression techniques.

Carroll and Mondrick (1976) wanted to determine whether there was racial bias in parole decision-making. They studied the files of 243 inmates from the Eastern Correctional Institution appearing before the parole board from October 1, 1970 through September 30, 1971. The data was collected from prisoner files of the multi-level security Eastern Correctional Institution. The data was analyzed by correlation and multiple regression techniques.

Nuttall (1977) sought to determine the factors that could assist in the prediction of parole decisions in England and Wales. He obtained his data from 1682 parole dossiers of which 876 involved a first review and 804 involved a second or subsequent review. Nuttall then applied multiple regression analysis to the data.

Carriere and Silverstone (1977) sought to find the prominent criteria employed by the National Parole Board

in decision-making. Starting in 1974 they examined Parole Service files in the Ontario and Quebec regions for inmates with parole hearings scheduled in March 1975. They attended and observed all National Parole Board hearings of inmates whose files had been examined. They interviewed National Parole Board members, parole officers, classification officers, and John Howard Society representatives. Their sample included 99 inmates in Ontario and 109 inmates in Quebec. Carriere and Silverstone then extracted the six or seven general types of criteria based on their observations.

Demers (1978) was concerned about discretion and disparity on the part of the National Parole Board. He reviewed 156 decisions rendered by the Board with reference to parole requests by females in 1972, 250 paroles granted to males in 1972, and 175 paroles denied to males in 1972. He abstracted his data from the parole file of every applicant. Demers then used multivariate analysis to isolate the key explanatory variables in the parole selection process and to estimate their impact on board decision-making.

Gottfredson (1979) sought to determine the extent to which post-sentencing factors influenced time-served decisions by parole boards. He obtained data from the files of the United States Board of Parole for inmates released in 1970, 1971, and 1972. Gottfredson then analyzed the data using multiple linear regression techniques.

Madden (1980) attempted to identify the unwritten criteria for parole decisions in Ontario. Between July 1979 and September 1979 he recorded his data by observing 266 parole hearings, conducting semi-structured interviews with board members, and reviewing files. Madden then analyzed the data through two-way contingency tables.

Nuffield (1982) undertook to make explicit which factors, if any were consistently related to the outcome of parole decisions. The research was based on a representative sample of 2500 male inmates released from Canadian federal penitentiaries in the years 1970, 1971, and 1972. The data was collected from the Inmate Records System of the Canadian Penitentiary Service, admission and career files from Statistics Canada, and records of arrests and convictions by police and court agencies and centrally collated in Ottawa. The data was then analyzed using multiple regression techniques and predictive attribute techniques.

Shewan (1985) sought to determine the importance of general policy as a factor in parole decision-making of the National Parole Board. His sample consisted of all federal penitentiary inmates released on parole or mandatory supervision in the years 1971 through 1975. Shewan's sources of data consisted of statistics kept by the National Parole Board. Shewan used a Type I/Type II error statistical

analysis to examine the outcomes of the releases as of June 1, 1980.

The Present Study

An attempt is being made in the present study to test the hypothesis that the sex of the victim plays a dominant role in the parole decision-making process.

The variables selected for this study have been chosen on the basis of their ability to test the hypothesis that the National Parole Board subordinates women at the expense of men. The dependent variable in this study is the decision by the National Parole Board to grant or to deny day parole. The independent variable is the sex of the victim. The control variables are the relationship between the offender and the victim, the age of the offender, the length of the sentence, the proportion of time served, the offender's previous criminal record, the offender's previous violent criminal record, and a significant crime-free period immediately prior to the present offence.

The dependent variable in this study is the National Parole Board decision to grant or to deny day parole. The study looks at the day parole decisions instead of the full parole decisions for a number of reasons. One reason is that full parole decisions are part of an automatic review process. Thus, if an inmate is eligible for full parole,

but has not made an application for parole and has not waived his right for a review, the National Parole Board will automatically review him and deny parole. This process tends to inflate the parole denials in full parole decisions. Day parole decisions at the time of the study were not subject to automatic reviews but were all based on applications from inmates. Therefore day parole denials were not inflated by an automatic review process. Another reason for selecting day parole decisions instead of full parole decisions for the dependent variable is that increasingly the National Parole Board is regarding day parole as part of a gradual release to full parole.

The decision to "grant" or to "deny" day parole means that the Board is saying "yes" or "no" to day parole. Therefore, reserve decisions and deferrals are not included as part of the dependent variable.

The sex of the victim is the key independent variable in this study. This variable is of major importance to the hypothesis that the National Parole Board devalues women. A finding that the Board is more lenient to males who victimize females than to males who victimize males will support the hypothesis.

The relationship between the offender and the victim is a control variable to determine whether it is the sex of the victim or the relationship between the victim and

the offender that is affecting parole decisions. Relationships are divided into two categories of domestic and non-domestic. Domestic relationships would include parents, siblings, spouses, /children, and common-law relationships. Non-domestic relationships mean that the offender and the victim are known to each other directly or through a third person or that there is no affiliation.

The age of the offender is a control variable to determine whether it is the age of the offender rather than the sex of the victim that is affecting the Parole Board decision. Age is categorized into under 40 and 40 years of age or older. The age 40 has been selected as a cutoff date because most inmates consider that they have less time in life ahead of them than behind them after the age of 40.

In the present study the length of the sentence is utilized as a control variable to see whether it is the length of the sentence rather than the sex of the victim that is affecting the parole decision. The length of the sentence is categorized into under five years and five years or over.

Proportion of the sentence served is used as a control to see whether it rather than the sex of the victim is affecting the parole decision. The variable is categorized into less than fifty per cent of the sentence and fifty per cent and over of the sentence served.

Previous criminal record is used as a control variable in the present study. The previous criminal record refers to adult criminal record and is based on the Royal Canadian Mounted Police Finger Print Service records. The record is dichotomized in "previous criminal record" and "no previous criminal record".

The previous violent criminal record is a control variable to measure whether sex of the victim or previous violent criminal record explains the parole decision. Violence would include sexual assault, assault causing bodily harm, wounding, and robbery with violence. Non-violent offences are break and enter, theft of auto, carry a concealed weapon, possession of stolen property, possession of a narcotic, theft, fraud, mischief, and escape lawful custody. This variable, too, is dichotomized into "previous violent criminal record" and "no previous violent criminal record".

Significant crime-free period is also a control variable. A significant crime-free period refers to whether an offender has been conviction-free for at least five years prior to the present conviction.

Parole decision-making studies tend to consider all criminal code offences; however, in the present study the focus is on the offence of manslaughter. Since board decisions vary with the nature of the offence, the advantage of focusing on the crime of manslaughter is that the crime is held constant.

Another advantage of using the crime of manslaughter is that files contain information about the sex of the victim for this particular crime.

In this study the Chi-square test is applied to the data. The reason for using the Chi-square test is that it is appropriate for the analysis of categorical variables. In using the Chi-square test the independent variable sex of the victim and the dependent variable day parole decision are dichotomized. Then the variables of relationship between the offender and the victim, the age of the offender, length of the sentence, proportion of time served, previous criminal record, previous violent criminal record, and significant crime-free period are used, one at a time, as controls for examining the relationship between sex of the victim and day parole decisions.

The clearest support for the hypothesis advanced herein would be achieved if a statistically significant relationship existed between the sex of the victim and the parole decision and no relationship was found between any of the control variables and the parole decision. This would indicate that, of the variables examined, only the sex of the victim affects the parole decision-making process.

CHAPTER IV

RESULTS

Data is presented concerning the effect of the sex of the victim on the parole decision-making process. Data is also presented on other variables that may have an effect on the parole decision. Then these other variables are presented, one at a time, as controls in considering the effect of the sex of the victim on parole decisions. The Chi-square test is applied to the data in order to determine statistically significant relationships in the decision-making process and/or whether there are relationships that are in the expected direction of the hypothesis.

Table 1. Parole Decision by Sex of the Victim

	Grant Parole	Deny Parole	
Male Victim	9	22	31
Female Victim	12	15	27
	21	37	58

$$X^2=1.44, \text{ d.f.}=1, p<.05$$

There were a total of 58 cases of which 21 or 36.2% were granted parole and 37 or 63.8% were denied parole. In 31 of the 58 cases or 53.4% the victim was a male and in 27 of the 58 cases or 46.6% the victim was a female. In the cases where the victim was a male, parole was granted in 9 out of 31 or 29.0% of the cases while in the cases where the victim was a female parole was granted in 12 out of 27 or 44.4% of the cases (Table 1). Although these rates are not statistically significant ($X^2=1.44, \text{ d.f.}=1, p<.05$), they are in the expected direction of the hypothesis.

Table 2. Parole Decision by Relationship between the Offender and the Victim

	Grant Parole	Deny Parole	
Domestic Relationship	12	15	27
Non-Domestic Relationship	8	19	27
	20	34	54

$$X^2=1.27, \text{ d.f.}=1, p<.05$$

There are, however, a number of other variables that could influence the decision to grant parole. One such variable is the relationship between the offender and the victim. This relationship has been identified as a domestic and a non-domestic relationship. In 27 out of 54 cases or 50.0% there was a domestic relationship between the offender and the victim while in 27 out of 54 cases or 50.0% there was a non-domestic relationship. The probability of a grant of parole when the relationship is domestic is 12 out of 27 or 44.4% and when the relationship is non-domestic the probability of a grant of parole is 8 out of 27 or 29.6% (Table 2). Although these rates are not statistically significant ($X^2=1.27$, d.f.=1, $p<.05$), they suggest parole is more likely to be granted when there is a domestic relationship.

Table 3. Parole Decision by Sex of the Victim for Domestic Relationships between the Offender and the Victim

	Grant Parole	Deny Parole	
Male Victim	1	5	6
Female Victim	11	10	21
	12	15	27

$$X^2=2.5, d.f.=1, p<.05$$

In the domestic relationship cases the probability of a grant of parole is 1 out of 6 or 16.7% when the victim is male and 11 out of 21 or 52.4% when the victim is a female (Table 3). Although these rates are not statistically significant ($X^2=2.5, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 4 . Parole Decision by Sex of the Victim for Non-Domestic Relationships between the Offender and the Victim

	Grant Parole	Deny Parole	
Male Victim	8	16	24
Female Victim	0	3	3
	8	19	27

$$\chi^2=1.5, \text{ d.f.}=1, p<.05$$

In the case of non-domestic relationships the probability of a grant of parole is 8 out of 24 or 33.3% when the victim is a male and 0 out of 3 or 0.0 % when the victim is a female (Table 4). These rates are not statistically significant ($\chi^2=1.5, \text{ d.f.}=1, p<.05$) and are not in the expected direction of the hypothesis.

Table 5. Parole Decision by Age of the Offender

	Grant Parole	Deny Parole	
Offenders under 40 years of age	12	27	39
Offenders 40 years of age and older	10	9	19
	22	36	58

$$\chi^2=2.6, \text{ d.f.}=1, p<.05$$

A second variable possibly affecting parole decisions is the age of the offender. Thirty-nine of fifty-eight or 67.4% of the offenders were under 40 years of age and 19 out of 58 or 32.6% were 40 years of age or older. An under forty offender had a 12 out of 39 or 30.8% probability of being granted parole while a 40 or over offender had a 10 out of 19 or 52.6% probability (Table 5). Although these rates are not statistically significant ($\chi^2=2.6, \text{ d.f.}=1, p<.05$), they suggest that offenders 40 years of age and older have a higher likelihood of being granted parole.

Table 6. Parole Decision by Sex of the Victim for Offenders under 40 Years of Age

	Grant Parole	Deny Parole	
Male Victim	6	15	21
Female Victim	6	12	18
	12	27	39

$$\chi^2=0.1; \text{d.f.}=1, p<.05$$

The probability of an under 40 offender being granted parole was 6 out of 21 or 28.6% when the victim was male and 6 out of 18 or 33.3% when the victim was a female (Table 6). The results are not statistically significant ($\chi^2=0.1$, d.f.=1, $p<.05$). They suggest there is virtually no relationship between the parole decision and the sex of the victim for offenders under 40 years of age.

Table 7. Parole Decision by Sex of the Victim for Offenders
40 Years of Age or Older

	Grant Parole	Deny Parole	
Male Victim	4	7	11
Female Victim	6	2	8
	10	9	19

$$X^2=2.8, d.f.=1, p<.05$$

The probability of an offender 40 years of age or over being granted parole was 4 out of 11 or 36.4% when the victim was a male and 6 out of 8 or 75.0% when the victim was a female (Table 7). Although the results are not statistically significant ($X^2=2.8, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 8. Parole Decision by Length of Sentence

	Grant Parole	Deny Parole	
Sentence less than 5 years	2	4	6
Sentence 5 years or more	19	30	49
	21	34	55

$X^2 = .01, d.f. = 1, p < .05$

A third variable possibly affecting parole decisions is the length of the sentence. Six out of fifty-five or 10.9% of the offenders were serving less than 5 years and 49 out of 55 or 89.1% were serving 5 years or more. An offender serving less than 5 years had a 2 out of 6 or 33.3% probability of being granted parole while an offender serving 5 years or more had a 19 out of 49 or 38.8% probability of being granted parole (Table 8). These results are not statistically significant ($X^2 = .01, d.f. = 1, p < .05$). They suggest that there is virtually no relationship between the parole decision and the length of the sentence.

Table 9. Parole Decision by Sex of the Victim for Offenders Serving a Sentence of Less than 5 Years

	Grant Parole	Deny Parole	
Male Victim	0	3	3
Female Victim	2	1	3
	2	4	6

$$X^2=3.0, d.f.=1, p<.05$$

The probability of an offender serving less than 5 years being granted parole was 0 out of 3 or 0.0% when the victim was a male and 2 out of 3 or 66.7% when the victim was a female (Table 9). Although these results are not statistically significant ($X^2=3.0, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 10. Parole Decision by Sex of the Victim for Offenders Serving 5 Years or More

	Grant Parole	Deny Parole	
Male Victim	9	18	27
Female Victim	10	12	22
	19	30	49

$$\chi^2=0.8, \text{ d.f.}=1, p<.05$$

The probability of an offender serving 5 years or more being granted parole was 9 out of 27 or 33.3% when the victim was a male and 10 out of 22 or 45.5% when the victim was a female (Table 10). These results are not statistically significant ($\chi^2=0.8$, d.f.=1, $p<.05$). There is virtually no relationship between the parole decision and the sex of the victim for offenders serving 5 years or more.

Table 11. Parole Decision by Proportion of Time Served

	Grant Parole	Deny Parole	
Less than 50% of the Time Served	7	25	32
50% or More Time Served	13	8	21
	20	33	53

$$\chi^2=8.7, d.f.=1, p<.05$$

A fourth variable possibly affecting parole decisions is proportion of time served. Thirty-two out of 53 or 60.4% of the offenders had served less than 50% of their sentence and 21 out of 53 or 39.6% had served 50% or more of their sentence. An offender who had served less than 50% of his sentence had a 7 out of 32 or 21.9% probability of being granted parole and an offender who had served 50% or more of his sentence had a 13 out of 21 or 61.9% probability of being granted parole (Table 11). These results are statistically significant ($\chi^2=8.7, d.f.=1, p<.05$) and indicate that offenders who have served 50% or more of their sentence are more likely to receive parole.

Table 12. Parole Decision by Sex of the Victim for Offenders who have Served Less than 50% of their Sentence

	Grant Parole	Deny Parole	
Male Victim	4	15	19
Female Victim	3	10 ^s	13
	7	25	32

$$\chi^2 = .03, \text{ d.f.} = 1, p < .05$$

The probability of an offender who has served less than 50% of his sentence being granted parole was 4 out of 19 or 21.1% when the victim was a male and 3 out of 13 or 23.1% when the victim was a female. These results are not statistically significant ($\chi^2 = .03, \text{ d.f.} = 1, p < .05$). They suggest that there is virtually no relationship between the parole decision and the sex of the victim when the offender has served less than 50% of his sentence.

Table 13. Parole Decision by Sex of the Victim for Offenders who have Served 50% or More of their Sentence

	Grant Parole	Deny Parole	
Male Victim	5	5	10
Female Victim	8	3	11
	13	8	21

$$X^2=1.1, d.f.=1, p<.05$$

The probability of an offender who has served 50% or more of his sentence being granted parole is 5 out of 10 or 50.0% when the victim was a male and 8 out of 11 or 72.7% when the victim was a female (Table 13). Although these results are not statistically significant ($X^2=1.1$, $d.f.=1$, $p<.05$), they are in the expected direction of the hypothesis.

Table 14. Parole Decision by Previous Criminal History

	Grant Parole	Deny Parole	
Previous Criminal History	16	26	42
No Previous Criminal History	5	11	16
	21	37	58

$$\chi^2 = .02, \text{ d.f.} = 1, p < .05$$

A fifth variable possibly affecting parole decisions is the previous criminal history. Forty-two out of 58 or 72.4% of the offenders had a previous criminal history and 16 out of 58, or 27.6% had no previous criminal history. An offender with a previous criminal history had a 16 out of 42 or 38.1% probability of being granted parole and an offender with no previous criminal history had a 5 out of 15 or 31.3% probability of being granted parole (Table 14). These results are not statistically significant ($\chi^2 = .02$, d.f. = 1, $p < .05$). They suggest that there is virtually no relationship between the parole decision and the previous criminal history.

Table 15. Parole Decision by Sex of the Victim for Offenders who have a Previous Criminal History

	Grant Parole	Deny Parole	
Male Victim	7	18	25
Female Victim	9	8	17
	16	26	42

$$X^2=2.7; d.f.=1, p<.05$$

The probability of an offender who has a previous criminal history being granted parole is 7 out of 25 or 28.0% when the victim is a male and 9 out of 17 or 52.9% when the victim is a female (Table 15). Although these results are not statistically significant ($X^2=2.7, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 16. Parole Decision by Sex of the Victim for Offenders who have No Previous Criminal History

	Grant Parole	Deny Parole	
Male Victim	2	4	6
Female Victim	3	7	10
	5	11	16

$\chi^2 = .01, d.f. = 1, p < .05$

The probability of an offender who has no previous criminal history being granted parole is 2 out of 6 or 33.3% when the victim is a male and 3 out of 10 or 30.0% when the victim is a female (Table 16). These rates are not statistically significant ($\chi^2 = .01, d.f. = 1, p < .05$). They suggest that there is virtually no relationship between the parole decision and the sex of the victim for offenders who have no previous criminal history.

Table 17. Parole Decision by Previous Violent Criminal History

	Grant Parole	Deny Parole	
Previous Violent Criminal History	5	11	16
No Previous Violent Criminal History	10	15	25
	15	26	41

$$X^2 = .04, \text{ d.f.} = 1, p < .05$$

A sixth variable possibly affecting parole decisions is previous violent criminal history. Sixteen out of 41 or 39.0% of the offenders had a previous violent criminal history and 25 out of 41 or 61.0% had no previous violent criminal record. An offender with a previous violent criminal history had a 5 out of 16 or a 31.3% probability of parole while an offender with no previous violent criminal history had a 10 out of 25 or 40.0% probability of parole (Table 17). These rates are not statistically significant ($X^2 = 0.4$, d.f. = 1, $p < .05$). They suggest that there is virtually no relationship between the parole decision and previous violent criminal history.

Table 18. Parole Decision by Sex of the Victim for Offenders who have a Previous Violent Criminal History

	Grant Parole	Deny Parole	
Male Victim	2	8	10
Female Victim	3	3	6
	5	11	16

$$X^2=1.5, d.f.=1, p<.05$$

The probability of an offender who has a previous violent history being granted parole is 2 out of 10 or 20.0% when the victim is a male and 3 out of 6 or 50.0% when the victim is a female (Table 18). Although the rates are not statistically significant ($X^2=1.5, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 19. Parole Decision by Sex of the Victim for Offenders who do not have a Previous Violent Criminal History

	Grant Parole	Deny Parole	
Male Victim	4	10	14
Female Victim	6	5	11
	10	15	25

$$X^2=1.73, d.f.=1, p<.05$$

The probability of an offender who has not had a previous violent criminal history being granted parole is 4 out of 14 or 28.6% when the victim is a male and 6 out of 11 or 54.4% when the victim is a female (Table 19). Although these results are not statistically significant ($X^2=1.73$, $d.f.=1$, $p<.05$), they are in the expected direction of the hypothesis.

Table 20. Parole Decision by Significant Crime-Free Period

	Grant Parole	Deny Parole	
Significant Crime-Free Period	9	4	13
No Significant Crime-Free Period	7	21	28
	16	25	41

$$\chi^2=7.2, \text{ d.f.}=1, p<.05$$

A seventh variable possibly affecting parole decisions is significant crime-free period. Thirteen out of 41 or 31.7% of the offenders had a significant crime-free period and 28 out of 41 or 68.3% did not have a significant crime-free period. Offenders with a significant crime-free period had a 9 out of 13 or 69.2% probability of being granted parole and offenders without a significant crime-free period had a 7 out of 28 or 25.0% probability of being granted parole (Table 20). These results are statistically significant and indicate that offenders who have a significant crime-free period are likely to be granted parole ($\chi^2=7.2, \text{ d.f.}=1, p<.05$).

Table 21. Parole Decision by Sex of the Victim for Offenders with a Significant Crime-Free Period

	Grant Parole	Deny Parole	
Male Victim	2	2	4
Female Victim	7	2	9
	9	4	13

$$X^2=1.1, d.f.=1, p<.05$$

The probability of an offender with a significant crime-free period being granted parole is 2 out of 4 or 50.0% when the victim is a male and 7 out of 9 or 77.8% when the victim is a female (Table 21). Although these results are not statistically significant ($X^2=1.1, d.f.=1, p<.05$), they are in the expected direction of the hypothesis.

Table 22. Parole Decision by Sex of the Victim for Offenders with No Significant Crime-Free Period

	Grant Parole	Deny Parole	
Male Victim	5	16	21
Female Victim	2	5	7
	7	21	28

$$X^2 = .03, \text{ d.f.} = 1, p < .05$$

The probability of an offender without a significant crime-free period being granted parole is 5 out of 21 or 23.8% when the victim is a male and 2 out of 7 or 28.6% when the victim is a female (Table 22). These results are not statistically significant ($X^2 = .03, \text{ d.f.} = 1, p < .05$). They suggest that there is virtually no relationship between the parole decision and the sex of the victim for offenders with no significant crime-free period.

To summarize, there was a statistically significant relationship between the decision to grant parole and the proportion of time served (Table 11). There was also a statistically significant relationship between the decision to grant parole and significant crime-free period (Table 20),

In terms of other control variables, although not statistically significant, the findings suggested a relationship between the decision to grant parole and the relationship between the offender and the victim (Table 2). There was also a finding, although not statistically significant, that suggested a relationship between the parole decision and the age of the offender (Table 5).

In terms of the sex of the victim, there were a number of findings, although not statistically significant, in the expected direction of the hypothesis. If the victim is a female the National Parole Board is more likely to grant parole than if the victim is a male (Table 1). In domestic relationships the Board is more likely to grant parole if the victim is a female (Table 3). If the offender is forty years of age or older, the Board is more likely to grant parole if the victim is a female (Table 7). For offenders serving less than 5 years, the Board is more likely to grant parole if the victim is a female (Table 9). In cases in which the offender has served 50% or more of his

sentence the National Parole Board is more likely to grant parole when the victim is a female (Table 13). If the offenders have a previous criminal history, they are more likely to receive parole when the victims are females (Table 15). When the offender has had a previous violent criminal history he is more likely to be granted parole if his victim was a female (Table 19). Finally, offenders with a significant crime-free period are more likely to be granted parole when they victimized females (Table 21).

In one instance there was a finding that was not statistically significant and that was not in the expected direction of the hypothesis. This was the case of non-domestic relationships when the National Parole Board is more likely to grant parole if the victim is a male (Table 4).

There were findings that suggested that there was virtually no relationship between the decision to grant parole and some of the control variables. Thus there was virtually no relationship found between the decision to grant parole and the length of the sentence (Table 8), the decision to grant parole and previous criminal history (Table 14), and the decision to grant parole and previous violent criminal history (Table 17).

Other findings suggested that there was virtually no relationship between the parole decision and the sex of

the victim when controlling for other variables. This was the case when the offenders were under 40 years of age (Table 6), when the offenders were serving a sentence of five years or more (Table 10), when the offender had served less than 50% of his sentence (Table 12), when the offender had no previous criminal history (Table 16), and when the offender had no significant ~~crime-free period~~ (Table 22).

Chapter VCONCLUSION

The purpose of this study has been to apply a feminist analysis to the parole decision-making process. According to a feminist perspective, males are held to be superior and females to be inferior by society. This situation is said to apply to the criminal justice system as well. In particular reference to parole decision-making, it has been hypothesized that the male-dominated National Parole Board is biased against women.

In order to subject the feminist analysis to scrutiny in parole decision-making, it was hypothesized in this study that the sex of the victim played a dominant role in the process. One might conjecture that a crime will be viewed as less serious if it is perpetrated against a female. Consequently the offenders in such instances may be more likely to be granted their release on parole. Parole decisions were thus studied. The parole decisions examined were those in which male offenders had committed the crime of manslaughter.

The parole decisions to grant or to deny parole were analyzed on the basis of whether the victim of the offence was a male or female. Since there are a number of other

factors that are considered by paroling authorities other than the sex of the victim, the next stage of the study was to control for these variables. Thus it was possible to determine whether the sex of the victim was an overpowering factor in the parole decision or whether the controlling variables accounted for the parole decisions. The controlling variables in the study were the relationship between the victim and the offender, the age of the offender, the length of the sentence, the proportion of time served, the previous criminal record, the previous violent criminal record, and significant crime-free periods. The data were collected from files in the Kingston Area Parole Office from 1985 to 1986. Bivariate analysis using the Chi-square test of independence was used to analyze the data.

Although proportion of time served and significant crime-free period were the only statistically significant factors in the decision to grant parole, there were a number of findings that were in the expected direction of the hypothesis. The National Parole Board is less likely to grant parole if the victim of the offence is a male rather than a female. The National Parole Board is also more likely to grant parole if there was a domestic relationship that involved a female victim rather than a domestic relationship that involved a male victim. Parole is granted more often when the victim is a female and the offender is forty years of age or older.

In cases in which the offender had a previous criminal record, the National Parole Board is more likely to grant parole if the victim is a female person. For offenders serving less than five years and committing their crimes against females, they are more likely to be granted parole. Offenders who have served 50% or more of their sentences are more likely to be granted parole if their victims are women. Offenders with no previous criminal history are more likely to be granted parole if their victims are women. Offenders with previous violent criminal histories and offenders with no previous violent criminal histories are likely to receive more favourable parole consideration if they victimized females. Finally, the National Parole Board is more likely to grant parole to offenders with significant crime-free periods if their victims are female persons rather than male persons.

The implication of this study is that the parole decision-making process may be biased against women. If a woman is a victim of a crime, the paroling authorities are more likely to grant parole than if a man was the victim. On a wider scale, it might be that the whole criminal justice system is biased against women. Along with the National Parole Board, the police, the crown attorneys, and the judges may all be treating offenders more leniently if their victims are females rather than males. For women, it means that if they are to become victims of crimes, they can expect

the criminal justice system to treat the crimes less seriously against them than if they were men.

A feminist analysis would interpret the oppression of women by the National Parole Board as part of the oppression of women in society, in law, and in law enforcement. According to feminist writers women have been oppressed under patriarchal power and under capitalist power. Under patriarchy, a woman's labour is appropriated by the male head of the household and structured inequality is codified in "patriarchal laws" stressing the innate inferiority of women and the natural superiority of men. Under capitalism, exploitation and competition entrench a sexual division of labour in both the workplace and in the home. The domestic sphere is characterized by unpaid labour for women and the industrial sphere is characterized by a male labour force. Although many women work nowadays, they tend to be segregated into low-paying "feminine" jobs. As a result of this division of labour, many women are dependent on a male family wage.

Feminist writers have also shown the way that rape laws and assault laws have enshrined oppression of women. At one time rape was considered a property crime committed against the victim's father, guardian or husband. Rape of women was dealt with by payment of a fine to the victim and to the state. Until 1983 in Canada, rape had been the only criminal offence in which the victim had to prove non-consent and

rape had been a crime in which husbands were exempt from raping their wives. In regard to assault, up until 1890 in England, husbands had the right under the law to assault their wives and in cases in which they killed their wives the doctrine of provocation protected them from stiff penalties.

Feminist writers have also pointed out the manner in which police, prosecutors, and judges have oppressed women in the matter of wife assault and rape. Feminists have drawn attention to the fact that policemen fail to define wife assault as a crime even though it has been shown that wife beating, when unchecked, becomes more and more severe as time goes on. Feminists have also revealed that police refuse to lay informations in rape cases because of their image of women as temptresses and seductresses who want to destroy man's innocence, an image which feminists suggest has been projected by Christian religious thought. Feminist analysis of the criminal justice system has shown that prosecutors have been forcing battered women to testify involuntarily against their husbands by incarcerating the women until they do testify and/or citing them with contempt of court. Prosecutors have also tended not to lay charges against wife batterers but to refer these cases to social services. They have also underplayed the gravity and history of wife assault in court cases and they have tended to plea bargain for the lesser crime of indecent assault in rape cases. Judges have taken

restrictive decisions under legislation that was designed to exclude the battering husband from the home and they have imposed suspended sentences, probation, and fines instead of jail in wife battering cases.

Given the oppression of women in society, in law, and in law enforcement, a feminist interpretation of the findings of this study is that parole board members reflect the values inherent in the subordination of women. Women have been viewed as subordinated to men under patriarchy and their unpaid work in the home has no economic value under capitalist power.

Feminists have made a number of proposals to reduce the oppression of female victims of crime. These include: (1) a pro-arrest policy in wife battering cases, (2) man-woman police teams for wife beating and rape cases, (3) cooperation between "women-centred" police officers and prosecutors with directors of battered women's shelters and crisis helplines, (4) specially qualified prosecutors in wife assault cases, (5) extensive witness preparation to bolster battered wives against the rigours of cross examination, and (6) the subsuming of rape law under sexual assault law.

Feminist proposals for changes in the National Parole Board could include: (1) man-woman parole boards, (2) cooperation between Board members and directors of battered women's shelters and directors of rape crisis centres, and

(3) the appointment to the National Parole Board of people who understand the treatment female victims have received under the law and by law enforcement officials.

By exposing the oppression of women, feminists have exposed the oppression of the majority of the population. The oppression of women cuts across the barriers of age, race, class, nationality, and culture. Women have been oppressed by social structure, law, and law enforcement. Although women account for the majority of the population, they have been subordinated to men under patriarchy and their unpaid work in the home has no economic value under capitalist power. Women have been isolated and traditionally confined within the domestic (private) area, while men have appropriated the public area. Laws have devalued women further by allowing husbands to beat and rape them in their own homes. Finally, even after the laws have been changed, police, prosecutors, and judges have been lenient towards offenders who assault and rape women and parole boards are more lenient to male offenders who commit manslaughter against women than to male offenders who commit manslaughter against men.

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