

# Women and Organized Crime

by

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prepared for

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*The views expressed herein are those of the author and do not necessarily reflect those of the Department of Public Safety Canada.*

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# Table of Contents

Executive Summary .....	4
1.0 Introduction.....	6
1.1 The ‘Organized Criminal’ as a Participant in a Criminal Organization.....	6
2.0 Overview of Women and Crime .....	9
2.0 Overview of Women and Crime .....	9
2.1 Theories of Women’s Involvement with Crime.....	9
2.2 The ‘Typical’ Female Offender.....	12
2.2.1 Over-representation of Non-White Prison Populations.....	13
2.2.2 The Economics of Women’s Involvement in Crime .....	14
2.2.3 Age.....	17
2.2.4 Justice Decisions.....	18
2.2.5 Histories of Abuse .....	19
2.2.6 Numbers.....	21
2.3 Types of Crimes .....	24
2.3.1 Minor offences.....	24
2.3.2 Violent Crimes.....	24
2.3.4 Drugs .....	25
2.3.5 Financial Crimes and Fraud.....	26
2.4 Summary .....	27
3.0 Organized Crime Offenders .....	29
3.1 Women Involved in Organized Crime .....	29
3.2 Literature Review .....	35
3.2.1 Female Street Gang Members .....	37
3.2.2 Women in the Mafia .....	41
3.2.3 Trafficking in Persons .....	45

3.2.4 Smuggling.....	52
4.0 Findings.....	59
4.1 Areas for Future Research .....	60
5.0 Conclusion .....	61
Bibliography .....	62
Court Cases.....	68

# Executive Summary

The fight against organized crime has been identified as a key priority for governments in Canada and on an international level. While many studies have focused on identifying organized crime groups, and on assessing the impact of such groups, the vast majority of the research in this area has focussed almost exclusively on male participation. There has been little attention paid to the involvement of women in these organizations, and the vast majority of the research that has been conducted in this area has focussed on women as victims of organized crime, or as occupying passive roles in directing the activities of criminal organizations.

The primary objectives of this discussion paper were to: review the literature; enhance the understanding the nature and scope of women's participation in organized crime; determine the extent to which women actively participate in and lead organized criminal activities; systematically examine the factors that influence women to participate in organized criminal activities; and, to determine how the criminal justice system deals with these offenders.

The paper has been grouped into two distinct parts. The first part presents an overview of women's overall participation in crime, in general, in Canada. The theories for female involvement in crime, a portrait of the "typical" female offender, as well as information on the types of crimes women engage in, and the level of female involvement in crime in Canada. This background information on female offenders serves to situate and contextualize the second part of the paper, which focussed specifically on women's involvement in organized crime structures in Canada, and abroad. The theories behind women's involvement in organized crime, the particular roles women play in criminal networks, women's roles in particular types of organized crimes such as drug trafficking, and human trafficking were also explored. The experience of female offenders with law enforcement and the legal system, and future areas of research with regards to women in organized crime were examined.

The main findings of the literature review were that women generally commit "minor" crimes, such as common theft, common assault, bail violations, and fraud. Female offenders in Canada are often from disadvantaged socio-economic backgrounds, non-white, they do not have much education, and they often have extensive histories of being victims of abuse.

The findings pertaining specifically to women who engage in organized crime found that women who engage in organized crime activities may differ demographically from the "typical" female offender. While very few women have been convicted under the criminal organization legislation in Canada, the majority of organized crimes that women commit in Canada fall under the 'participation' offence – the lowest 'tier' of charges under the legislation. There was some evidence to suggest that women do occupy positions of trust in criminal organizations, and are much more involved in decision-making than previously believed. Internationally, there is evidence of women taking 'leadership roles' in diverse criminal organizations. As with all types of crime, women's involvement with organized crime is statistically low, but all indications are that it has risen slightly, with some women participating at higher levels or holding leadership positions.

It is clear from the literature that additional research is needed in this area to address specific gaps in our knowledge base, as well as to inform the operational and intelligence needs of law enforcement agencies.

# 1.0 Introduction

## 1.1 The ‘Organized Criminal’ as a Participant in a Criminal Organization

The specific focus of this paper is on the involvement of women in “organized crime” as well as the response of the criminal justice system in Canada to these offenders and to organized crime-related crimes. The problem, of course, is that the term organized crime does not relate to any one type of crime – not even to criminal behavior that one could easily describe in terms of any agreed upon characteristics such as degree of planning, violence, profitability or skill. Therefore, this paper shall avoid a prolonged debate over the various definitions by making use of the current Canadian legislative definitions – criminal organization legislation which contains three ‘new’ offenses in respect to an individual’s connection to the ‘criminal organization’.<sup>1</sup> People convicted of these offenses therefore are in more popular terminology, ‘organized criminals’. As stated in the *Criminal Code* 467.1:

“A ‘criminal organization’ means a group, however organized that is composed of three or more persons in or outside Canada and has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.”

Of particular note regarding our analysis of the role of women in organized crime, the offender need not know that he/she is facilitating/ assisting a criminal organization:

“...facilitation of an offence does not require knowledge of a particular offence the commissions of which is facilitated, or that an offence actually be committed”.

The three new offences are *participating* (every person who enhances the ability of a criminal organization to facilitate or commit an indictable offence...); *commission* ( every person who commits an indictable offence...); and *instructing* (every member of a criminal organization who knowingly instructs, directly or indirectly any person to commit an offence.....). Participating is seen as the ‘lowest tier’ of these new offences, and instructing is the highest tier since it implies a

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<sup>1</sup> Criminal organization legislation in Canada: “...facilitation of an offence does not require knowledge of a particular offence the commissions of which is facilitated, or that an offence actually be committed.”

status relationship within the criminal organization with someone in a position to ‘instruct’ others (Freedman 2006).

This discussion of the role of women in organized operations takes into account these categories, recognizing the vagueness of categories such as participating, since any supportive role could be argued to qualify under this criminal organization framework. Arguably, examples of this are seen in the charges against gangs in the so-called mega-trials as girlfriends and mothers are included in the initial arrests, although these charges tend to be dropped. In reference to the participating offense, David Freedman (2006) argues:

Here the flexibility of the criminal organization concept is twinned with an expansive notion of participation, seemingly controlled only by strict considerations of mental fault...it represents a danger in terms of selective enforcement and creating what our criminal law has always avoided, mere status offences. (p. 219)

In addition to the discussion regarding when to include certain offenses committed by women under a general umbrella of ‘organized crime’, there is an additional issue that is perhaps best discussed by Gudrun Vande Walle (2002):

In brief, the distinction between white-collar crime and organized crime reflects power relations within the political and economic arena, and both types of crime should be regarded as the result of male power. (p. 278-279).

When Edwin Sutherland coined the phrase ‘white-collar crime’ and developed the concept that we now associate with this term it was with the intent to recognize that the crimes were being committed by the so-called respectable/legitimate individuals or organizations. The consequence of his research has been that white collar crime is seen to be something less than ‘real crime’ and traditionally receives less social and criminal sanctions; while some of this may have changed with the collapse of the global economy (due in large part to ‘white-collar crimes’) a distinction remains. As Vande Walle (2002) states:

... We must banish the term white-collar crime if we are persuaded that white-collar criminals do not deserve an exceptional treatment. White-collar crime is an emotionally loaded term, a “political barricade term”, rather than a scientific one. It refers to economic discrimination and the political protection of economic power from prosecution. A more neutral alternative could be “organised economic crime”, which describes the dynamics of crime in general” (p. 278-279)

When looking at women involved in organized crime, it needs to be acknowledged that their involvement can fit somewhere along a continuum from the extreme of instructing, to commission, to participation. The application of criminal law in any jurisdiction reflects, to a significant extent, power relations and within a capitalistic economy it therefore tends to protect business interest. The application of the criminal organizations legislation is no exception. Hence ‘seriousness’ or the various attempts at an evaluation pertaining to the ‘harm to society’, while often applied in the decisions of the sentencing judges, rarely reflect an objective measure of actual comparable risk to society (Dorn 2009; Smith 1980; Van Duyne and Groenhuijsen 2005).

For these reasons, once one takes a broad approach to organized crime, ‘criminal participation’ may not be very distinct from criminal involvement in other criminal activity. This speaks to the need to include research that looks at the possibly changing role of women in crimes in general.<sup>2</sup> Most, but not all, of the factors that we glean from an examination of non-organized crime apply directly to an understanding of the involvement of women in criminal organizations. This literature-based review will therefore include an examination of the changing role of women in wider forms of criminal activities with a specific focus on female involvement (and the roles they play) in organized crime. In addition, what is known about the nature and/or the consequences that result from the responses by the criminal justice system in Canada will be analyzed, concluding with a predictive discussion regarding the most likely future involvement of women in organized crime.

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<sup>2</sup> The following specific areas will be covered:

- Changing role of women in wider forms of criminal activities;
- Literature that attempts to ‘explain’ this changing involvement;
- Literature that looks specifically at women in organized crime (Push and Pull);
- Literature that identifies what roles women assume;
- Literature that tries to answer ‘why’ women participate in organized crimes;
- Literature that looks at the criminal justice’s response to female offenders; and
- Literature that includes predictive information as to the future involvement of women in organized crime.

## 2.0 Overview of Women and Crime

### 2.1 Theories of Women's Involvement with Crime

In 1975 Freda Adler<sup>3</sup> published *Sisters in Crime*. While it was not the first book to look at female criminality, it was significant for several reasons. Her theory was highly controversial and perhaps its greatest achievement was in the research that it generated – both to support and also to refute her claim that ‘the darker side’ of women’s liberation had resulted in a “social revolution in which women are closing many of the gaps, social and criminal, that have separated them from men” (Adler 1975, 30). Feminists directed their scholarship at critiquing the Adler ‘liberation theory’ and anti-feminists used her female criminality arguments to campaign for the social benefits of women remaining in the home and away from the ‘shady aspect of liberation’ that was freeing women to ‘plunge exuberantly into the formerly all-male quarters of the working world.’ Rather than theories such as the Lombroso-type notion of biological abnormalities or Freud’s penis envy/psychological theories to explain the rare examples of female criminality, now one could point to women’s liberation to explain the alleged increase in female offending. Could the ‘cause’ be power-envy once women got a taste for male freedoms?

The researchers who have focused on female criminality since Adler (1975) have illustrated the complexity of trying to determine an accurate picture of the statistics regarding the amount of female offending and a clear analysis of cause and effect. Because the numbers of females who are committing crimes are small (even if the claim that they are increasing is correct), comparing the ‘percentage’ increase of female criminality to the ‘percentage’ increase in male criminality gives a distorted impression. An additional few female offenders (or more specifically, a few more recorded incidents or convicted women) can appear to be a significant increase, whereas it would require a large number of additional male offenders to indicate a male percentage increase. This of course is further affected by police discretion (for or against women) and the

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<sup>3</sup> ‘Who’ Freda Adler was becomes important due to the attention that was given to her thesis. At the time the book was published she had the mentoring support of the renowned criminologist Marvin Wolfgang. She became a Distinguished Professor in Criminal Justice at Rutgers University and served as a past-President of the American Criminological Society for the 1994-1995 term. She was married to Gerhard O.W. Mueller who, among other UN roles, served as Chief of the UN Crime Prevention and Criminal Justice Branch of the UN from 1974-82. Adler acted as a consultant to the United Nations on criminal justice matters for many years.

discretion of the courts. Add to all of these complications the question of whether females are perhaps committing less detectable offenses (or more detectable) and hence resulting in a smaller 'hidden' or a disproportionately 'exposed' official crime rate.

When one attempts to make a causal argument linking changes within the social, economic or political structures in society to social behaviour such as offending, it is important to acknowledge the varying impact that factors have on social class, race/ethnic groups, and gender. One of the criticisms against Adler (1975) was that her vision of the tremendous gains made by women via the liberation movement were gains that might have been experienced by a segment of the female population but were in no way uniformly experienced. While some middle-class white women may have experienced various degrees of 'liberation' other women did not. Her argument required that those who were most liberated would also be the most likely to move with freedom into the lucrative male-dominated world of serious crimes. This tended to not be the case. There were, however, advantages to the Adler (1975) thesis. 'Blaming' any increase in female criminality on feminism and the liberation movement did not require that one untangle other theories of criminality: socialization, opportunity, power-control, strain theory – nor did one need to focus unduly on sheer 'need' due to poverty, racial discrimination, and/or intimidation and other forms of victimization as being the possible reasons why women might 'choose' to offend.

There are many schools of thought that examine how women become involved in criminal activity. In line with Adler (1975), one school of thought suggested women's increased incarceration rates could be linked to the rise of women's equality. Schwartz and Steffensmeier (2008) refer to the rise of female offending in relationship to female emancipation (using the Adler concept of 'the dark side of feminism') but argue that this is not an appropriate analysis of women's crime. Instead, they suggest that it is not equality, but inequality that leads women to offending. They support their argument by connecting women's economic inequality and poverty to the economic-based crimes with which women are mostly charged, such as fraud, shoplifting, and theft of services. Likewise, Hagan, Simpson and Gillis (1987) discuss the role that class, patriarchy, and family structure can play in female crime rates, suggesting that the *less* power women have in the household, the less likely they are to commit crime. Specific types of crimes

in different jurisdictions may call for different explanations. Carroll (2001) suggests that the rise of Mafia women in Italy is connected to women's increased participation in universities and the labor market, as women are gaining equality in all institutions from which they were previously excluded.

Chesney-Lind and Plasko (2004) argue that culture influences patterns in women's crime, and they provide the example of the high arrest rates of black women in North Carolina after the abolition of slavery. In this historical example, black women were accused of sexual crimes such as having children out of wedlock in numbers far exceeding the equally 'guilty' white women. The authors dispel the argument that women's liberation led to higher crimes rates and instead suggest that women's increased incarceration is linked to urbanization, as women struggled to make money when they moved to cities from rural areas and then turned to illicit activities for survival. A continuing theme running through the literature that attempts to explain women's involvement in crime is the need to rethink what constitutes 'justice' for female offenders and acknowledge their social positions and relationship with poverty, marginalization, and lack of skilled work. McIvor (2007) agrees, stating that the biggest indicators of women's involvement in crime are economic deprivation, poverty, and substance abuse.<sup>4</sup>

Mainment (2007) takes this argument even further, and links women's increased crime rates to the rise of neoliberal ideology. The author argues that state power is to blame for marginalization, as gender, race, and class inequalities exclude citizens from the market place, which may lead them to participate in the market in illegal ways. According to Mainment, rather than analyzing the impact of state and market relations as a possible reason for criminal activity, blame is placed on the offender and crime is shaped to be an individual problem while failing to link gender, race, ethnicity, and class to women's offending. A gender-neutral approach assumes men and women became involved in the crime through the same process but this may not be true—or it might be true if their life-conditions and life-chances were the same, which they presumably are not.

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<sup>4</sup> See also Heidensohn, F.M. (1995). New reflections on women and crime. *Women & Crime* (2<sup>nd</sup> ed.) (pp. 201-219). Washington Square, New York: New York University Press.

Many authors agree that women have been overlooked by the criminal justice system. In 1987 Ellen Adelberg and Claudia Currie edited an influential book titled “Too Few to Count: Canadian Women in Conflict with the Law.” The argument running through this book was that due to the small numbers of women offenders, very little research had been done—neither on who the women were nor on their needs. Given the small numbers of women, very specifically designed programmes would have been possible, yet again because they were ‘too few to count’, they were also too few to bother with. Even post incarceration, there are gendered differences in what works to reduce recidivism which have largely gone unrecognized. In support of this argument, writers suggest that female offenders are in need of empowerment, not imprisonment (Herrschaft et. al 2009). Hayman (2006) would agree, as she concludes her book by commenting that ‘healing’ female offenders is unlikely to be achieved through imprisonment. While prison is arguably not a healing process for either men or women, separation from and potential loss of children, inadequate treatment for the affects of previous physical or emotional abuse, and inadequate skill-based training for the small female prison populations all result in the woman leaving the prison less able to cope, rather than strengthened (Zaplin and Dougherty 2008).

McIvor (2007) suggests that women’s offending challenges traditional theories of criminality. For example, Verrecchia (2009) argues that the responses from the criminal justice system are male centered, with a focus on punishment of the offender rather than on restorative justice. Both authors advocate for gender specific programming that takes women’s socioeconomic situations and the suffering of the female offenders into account. Within the criminal justice system female offenders are either seen as depraved and beyond rehabilitation and hence worthy of harsh sentencing or as morally corrupt, and in need of guidance to reach moral maturity – much like a child in need of discipline (Phillips and Harm 1998). Neither of these stereotypical views leads to effective programming. Historically, a woman’s ‘true crime’ may not always be her legal violation, but rather her non-conformity to traditional notions of femininity. While this may be changing there is still no ‘rogue’ characterization for the female who has spent time in prison unlike for certain males who may gain in status following their prison experience.

## **2.2 The ‘Typical’ Female Offender**

It is advantageous to begin by looking at who the “typical” female criminal is to provide context and an in-depth understanding of female criminality. There are many similarities throughout much of the literature surrounding women and crime in Western countries. The type of female offender most often described is:

- non-white;
- poor;
- undereducated;
- unemployed;
- often a lone parent; and
- with a history of having been abused.<sup>5</sup>

### **2.2.1 Over-representation of Non-White Prison Populations**

While the largest amount of the literature is based on the United States, the general description applies in Canada. People who belong to visible minority groups are over-represented in the prison systems. While in Canada, unlike in the United States, the majority of both federal and provincial/territorial offenders are Caucasian, other groups are significantly over-represented in comparison to their percentage of the total population. As has been well documented, Aboriginal women are vastly overrepresented in the criminal justice system. In 2005, 30% of women serving a custodial sentence in a Provincial/Territorial system were Aboriginal.

The same, if not quite as extreme, example of an over-representation exists in the federal system. In 2007 there were 460 female prisoners within the federal system—104 of these women were Aboriginal women. In 1997, 15% of the population in the federal system were Aboriginal offenders and in 2006 this percentage had climbed to 25%, dropping to 23% in 2007 (Kong and AuCoin 2005). The percentage of Aboriginal people in the general population in 2007 was 3.3% (Women Offender Statistical Overview 2007).<sup>6</sup> While the reasons for this over-representation are

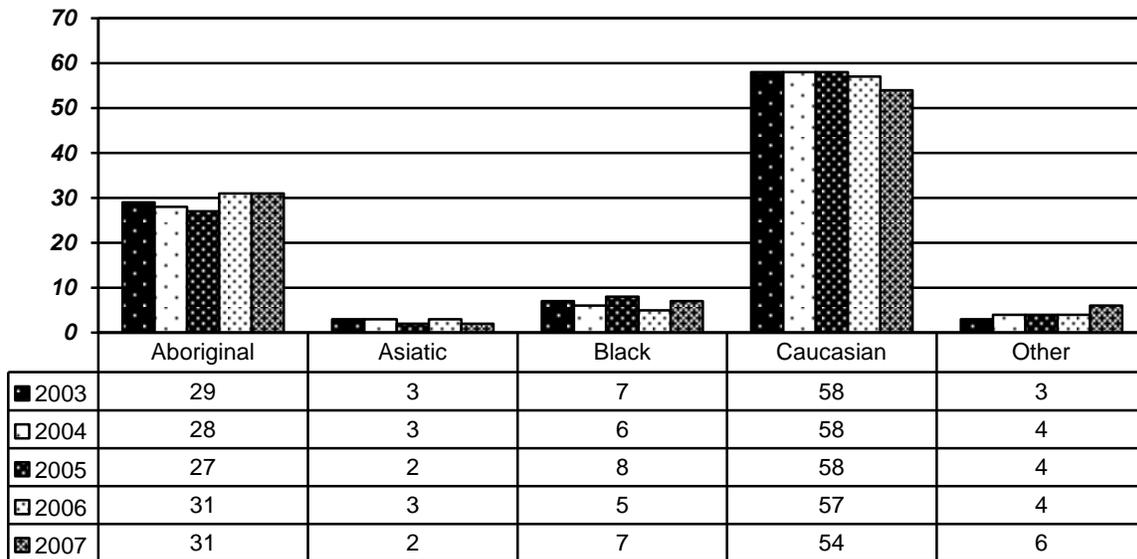
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<sup>5</sup> See for example, Lisa Addario *Six Degrees*...paper prepared for the Department of Justice Canada (2002); Gill McIvor 2008; Finn et al. The Statistics Canada ‘One day Snapshot, (1996); Kong and AuCoin (2005); Phillips and Harm (1998). See also Aboriginal Women and the Legal Justice System in Canada, an Issue Paper By the Native Women’s Association of Canada, June 2007.

<sup>6</sup> Data from, “Women Offender Statistical Overview, 2007”. Unpublished Working Document. Public Security Canada.

complex (and cannot be dismissed as being due to ‘liberation’)—the fact of over-representation in our prisons is indisputable.

**% Distribution of the Incarcerated Federal Women Offender Population by Ethnic Origin**



### 2.2.2 The Economics of Women’s Involvement in Crime

In terms of economic status, while both men and women who come into conflict with the law have a high rate of poverty, as Dianne Martin (1999) writes “women are much more likely to be economically marginalized. Whether as single persons or as sole-support mothers, women consistently are the poorer of the poor.”<sup>7</sup> Canadian specific data produced by the Canadian Centre for Justice Statistics about female offenders describes the majority of Canadian women in prison as single, unemployed, with a grade nine or less education, and in their early 30’s (Finn et al 1996). The most extremely disadvantaged segment of this population are Aboriginal women. Not only do Aboriginal and non-white women make up a large portion of incarcerated women, they are also more likely to be denied bail. Addario (2002)<sup>8</sup> describes women offenders as very often being a lone parent and living in poverty, and she links this to a reduction of government

<sup>7</sup> Dianne Martin also writes “After experience with abuse, poverty is probably the next single most unifying factor among women in conflict with the law, and it plays a major role in the crimes that women commit.” (1999)

<sup>8</sup> Lise Addario. 2002. *Six Degrees from Liberation: Legal Needs of Women in Criminal and Other Matters*. Prepared for the Department of Justice, September 21. Programmes Branch, Research and Statistics Division. [http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03\\_la20-rr03\\_aj20/toc-tdm.html](http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la20-rr03_aj20/toc-tdm.html)

support for these communities (Addario 2002). Although not Canadian specific, Phillips and Harm (1998) suggest that approximately 80% of women in prison are mothers that were the primary caregiver to their children at the time of arrest.

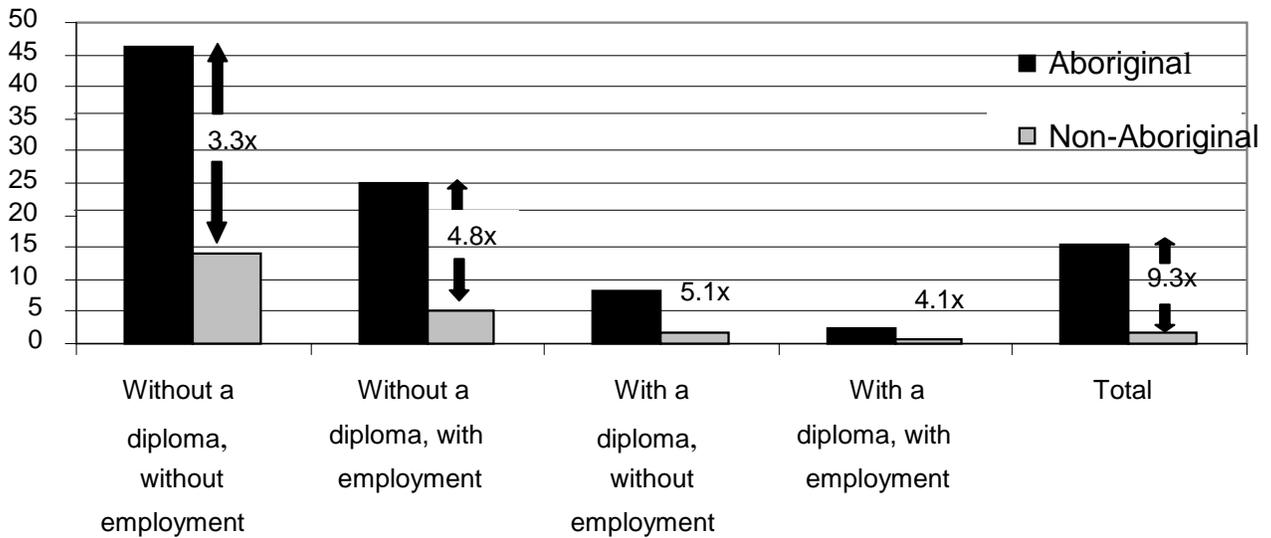
Traditionally, researchers attempted to identify ‘the cause’ of certain forms of criminal behaviour and met with contradictory findings. Researchers now realize this was because there is not just one answer, but most likely a collage of separate factors. For example, lack of employment and education, two severe disadvantages that might be expected to propel one towards illegal activity by themselves do not prove to be good indicators of criminality. As one can see from the chart below, having a diploma and a job, or some combination of those two factors did not remove the difference in the incarceration rate between Aboriginal women and non-Aboriginal women leading to the conclusion that it is a ‘mix’ of needs.<sup>9</sup>

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<sup>9</sup> “Recent government policies have aggravated women’s economic marginalization. Such policies include a reduction in state expenditures on programs that benefit the poor, of whom women are a majority.” (Addario. 2002)

**Incarceration rate on Census Day, by employment and education status, population aged 20 to 34, Alberta, May 16, 2006<sup>10</sup>**

rate per 1,000 population



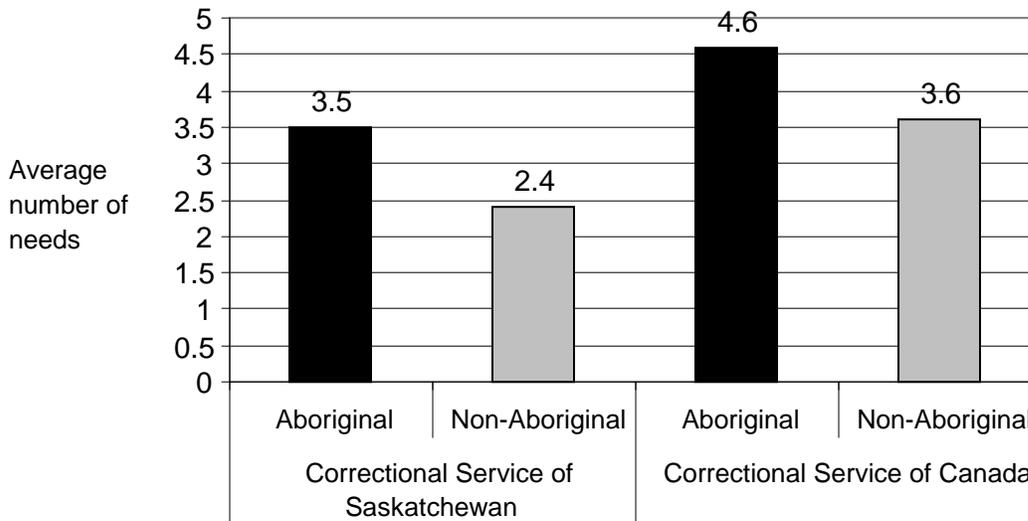
In 2007/2008, Aboriginal adults entering custody in Saskatchewan or entering a federal penitentiary were assessed as having, on average, a higher number of needs than were non-Aboriginal adults. These ‘needs’ include: employment, marital/family relationships, social interaction, substance abuse, community functioning, personal/emotional status, and attitude. (Perreault, Statistics Canada, CCJS, 2009. According to the Addario (2002) study—supported by national and international findings, ‘women’s law breaking is inextricably linked to poverty and abuse. These two factors get ‘displayed’ in the form of an array of ‘needs’. After being charged and/or convicted, a pressing ‘need’ is for adequate and competent legal aid—again, too often lacking.

The different between Aboriginal and Non-Aboriginal populations in term of ‘needs’ is fairly similar across the provinces. Among those admitted to federal custody in Canada, the percentage of inmates found to have a need in the area of substance abuse, was 82% of Aboriginal adults

<sup>10</sup> Source: 2009. Statistics Canada, Canadian Centre for Justice Statistics, Integrated Correctional Services Survey and 2006 Census of Population. <http://www.statcan.gc.ca/pub/85-002-x/2009003/article/10903-eng.htm#a14>

and 67% of non-Aboriginal adults. The following chart displays these findings for Saskatchewan.

**Average number of needs by Aboriginal identity, 2007/2008<sup>11</sup>**



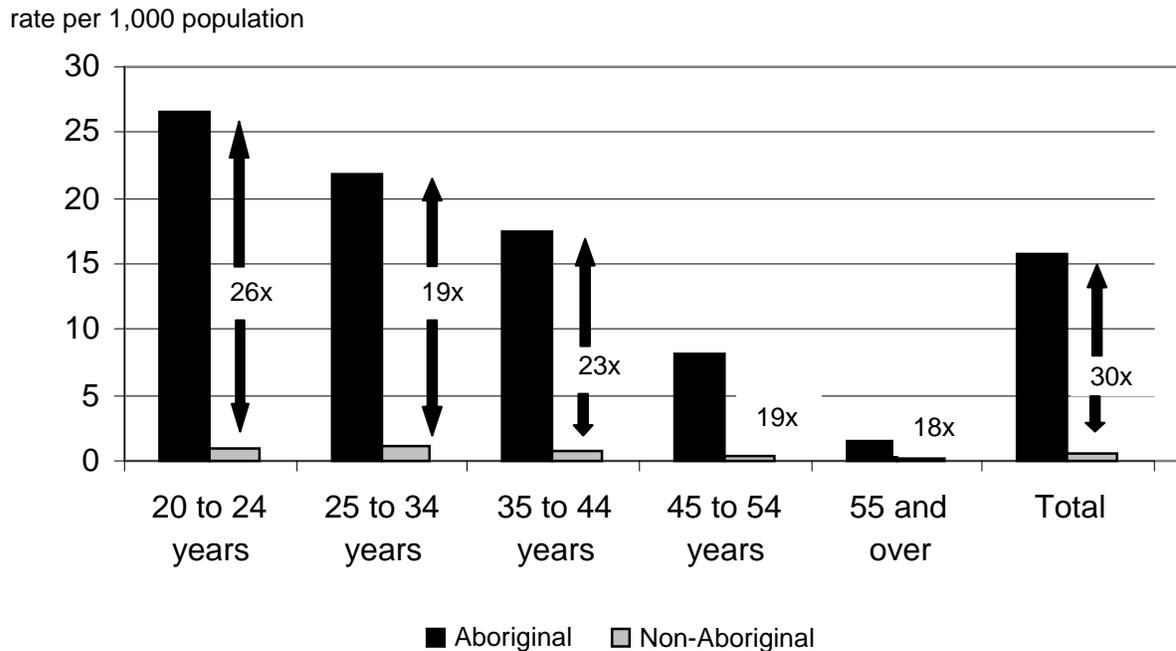
### 2.2.3 Age

Researchers have found that age demographics are a significant factor in understanding the distribution of offending.<sup>12</sup> Young adults and teens are the most at risk of being involved in criminal activity. The Aboriginal population is young. When age is taken into account the ratio between the incarceration rates for the Aboriginal and non-Aboriginal populations for each of the age groups is generally slightly lower than the ratio between the total population (where age is not considered). The following chart presents the information based on Saskatchewan census data.

<sup>11</sup> Note: Represents individuals who were assessed as having either medium or high needs. For those who were admitted more than one time during the fiscal year 2007/2008, information is based on the most recent admission. Source: Samuel Perreault 2009. Original source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Correctional Services Survey, 2007-2008. <http://www.statcan.gc.ca/pub/85-002-x/2009003/article/10903-eng.htm#a14>

<sup>12</sup> See for example, Roger E. Boe. 2002. “[Future demographic trends may help Canada's Aboriginal youth.](#)” Forum on Corrections Research. Vol. 14, no. 3. Correctional Service of Canada. Ottawa. <http://www.csc-scc.gc.ca/text/pblct/forum/e143/e143e-eng.shtml> (Accessed July 6, 2009); and Boe, 2000. “[Aboriginal inmates: Demographic trends and projections.](#)” *Forum on Corrections Research*. Vol. 12, no. 1. Correctional Service of Canada. Ottawa. <http://www.csc-scc.gc.ca/text/pblct/forum/e121/e121c-eng.shtml> (Accessed July 6, 2009).

## Incarceration rate on Census Day, by age groups, Saskatchewan, May 16, 2006 <sup>13</sup>



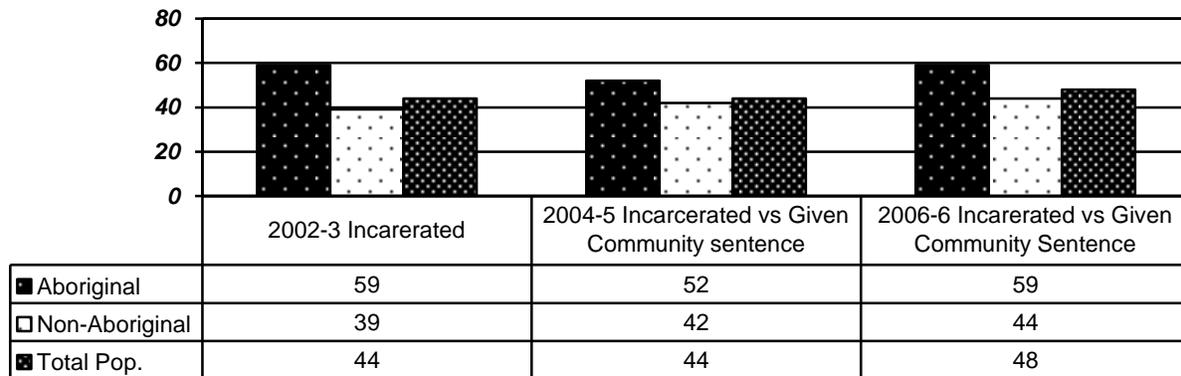
### 2.2.4 Justice Decisions

The numbers of Aboriginal inmates indicate an apparent failure of the *Gladue* decision that stipulated that due to the background and inequalities suffered by the Aboriginal populations, prison should be in practice, not just in rhetoric, an absolutely last resort option. The intent was to reduce the over-representation of Aboriginal people within the prison system—and also to reach other marginalized and deprived groups. The statistics provided by Statistics Canada indicates that the sentencing recommendation—that prison be an absolute last resort—does not seem to have been applied in any significant manner to even Aboriginal women. Evidence appears to indicate that in practice Aboriginal women are being denied bail in greater proportion as compared to non-Aboriginal women and alternatives to prison are not being used.

<sup>13</sup> Source: Ibid . Statistics Canada, Canadian Centre for Justice Statistics, Integrated Correctional Services Survey and 2006 Census of Population. <http://www.statcan.gc.ca/pub/85-002-x/2009003/article/10903-eng.htm>

The chart below indicates that over the years from 2002 to 2007, aside from a slight leveling off in 2004-05, incarceration of Aboriginal women (compared to non-Aboriginal women) was being used in a greater percentage of cases as compared to community-based options.

**% Distribution of the Aboriginal and the Non-Aboriginal Federal Women Offender Population Incarcerated Versus a Community sentence 2002-2007<sup>14</sup>**



The “Report of the Aboriginal Justice Inquiry of Manitoba” in 1991 found that 90% of the accused young Aboriginal women were held on remand.<sup>15</sup> More recent evidence reveals that when they move into urban areas to escape violence and poverty—arriving occasionally without a fixed address or strong links to the communities these conditions then become the grounds used to deny bail since judges will consider factors such as employment, family ties and a fixed address when making bail decisions (Addario p. 22).

### 2.2.5 Histories of Abuse

Summarized by Addario (2002) in “Six Degrees from Liberation”:

... when the life stories of women who are charged with criminal offences are examined, the history of victimization in their lives is impossible to ignore – 72 percent of provincially sentenced women, 82 percent of federally sentenced women and 90 percent of federally sentenced Aboriginal women have histories of physical and/or sexual abuse. As well, 43 percent of federally sentenced women have substance abuse or addiction

<sup>14</sup> Data from, “Women Offender Statistical Overview, 2007”. Unpublished Working Document. Public Security Canada. Incarcerated includes federal offenders in a penitentiary or provincial prison. Community includes federal offenders on Day parole with daily return, temporary detention, day parole, full parole, statutory release and deported federal offenders.

<sup>15</sup> *Report of the Aboriginal Justice Inquiry of Manitoba* in 1991, Winnipeg. See Addario *Six Degrees...* P. 22

problems. However, unlike those of their male counterparts, women's addictions are frequently linked to their experiences of abuse. (p.15)<sup>16</sup>

In 2009, the Elizabeth Fry reported that 80% of all federally sentenced women report having been physically and/or sexually abused. This percentage rises to 90% for Aboriginal women (Elizabeth Fry).<sup>17</sup> Abuse is a common thread between female offenders; many of them have been victims of crime themselves prior to their arrest (Chesney-Lind and Plasko 2004; The Department of Justice Canada 2010; Ferraro 2006; Heidensohn 1995; McIvor 2007; Phillips and Harm 1998; Verrecchia 2009).<sup>18</sup> Researchers have found that many of the violent crimes that women commit are done so in self protection, or in an effort to protect their children from an abusive partner.<sup>19</sup> While in the early 1990's the term 'battered woman's syndrome' was used to indicate the context of certain acts of violence—most specifically murder—it now is referred to more generally as battering and serves not as a legal defense but as mitigating circumstances to support claims of self-defense, insanity and diminished responsibility.

The opposition to the notion of a 'syndrome' was the concern that it 'pathologizes' women and their histories by stressing the woman's victimization and reinforces the idea that women were irrational, rather than placing the focus on 'his' abusing and violent behavior. In Canada, the 1990 decision of the Supreme Court of Canada in the *Lavallee* case for the first time provided legal recognition of the significance of battering within the context of domestic homicide. "Madame Justice Wilson altered the traditional limits of the legal doctrine of self-defence. She stressed the need to examine the woman's own subjective fear, within the context of her experiences of abuse." (Pate: CAEFS 1994) Feminist scholars question whether significant gains for battered women followed from the *Lavallee* case—perhaps most specifically for applying the

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<sup>16</sup> See also Elizabeth Comack, *women in trouble: Connecting Women's Law violations to their Histories of Abuse*, Fernwood Publ. 1996;

<sup>17</sup> <http://www.elizabethfry.ca/eweek09/pdf/crmwomen.pdf> Elizabeth Fry

<sup>18</sup> See for example, <sup>18</sup>Chesney-Lind & Plasko, 2004; Department of Justice Canada, 2010; Ferraro, 2006; Heidensohn, 1995; McIvor, 2007; Phillips & Harm, 1998; Verrecchia, 2009.

<sup>19</sup> The *National Post* covered the story of Angelina Napolitano, a 28-year-old, pregnant immigrant, considered the first woman in Canada to use the battered-woman syndrome defence in a murder case. She is claimed to have exclaimed "I just killed a pig," after axing her husband Pietro to death on Easter Sunday, 1911. Pietro was apparently a violent abuser who had previously slashed his spouse's face, shoulder, chest and arms with a pocket knife and had threatened to kill Angelina unless she became a prostitute to help pay the bills. [http://www.sootoday.com/content/news/full\\_story.asp?StoryNumber=6944](http://www.sootoday.com/content/news/full_story.asp?StoryNumber=6944)

‘reasonableness’ test to cases involving women of colour and the narrow evidence that is allowed to support the claims of abuse. Looking afresh at the cases of women in (at that time) the Prison for Women proved to be difficult:

... women who had any prior criminal records or had lived anything but pristine lifestyles (i.e. that of the good wife, good mother, compliant woman) tended to consequently have their past histories dredged up and used against them ... Too often, the criminal justice system ignores the lack of viable alternatives for women who are battered. Often overlooked are: a) women's fear of harm should they attempt to escape [many women are killed as they are leaving or after they have recently departed an abusive relationship]; and, b) the relative lack of police responsivity to situations of "domestic" violence. (Pate. 1994)

To this list would be added fears that reporting any abuse would result in deportation or economic deprivation if the spouse is removed or leaves. Aboriginal or immigrant women are most vulnerable. Furthermore, women who fight back against their abuser may be considered a participant in the altercation and face counter charges.<sup>20</sup> These claims are consistent with the findings of the Addario report (2002), which also argues that women may stay in abusive relationships in order to survive economically. Immigrant and non-white women may also be fearful of calling on police assistance for many additional reasons; they might fear child removal, deportation, retaliation from their partner, or the removal of a sponsorship application by their partner making them particularly vulnerable.

### **2.2.6 Numbers**

Crime statistics are always problematic— it is difficult to know whether actual occurrences are increasing or are other factors contributing to the appearance of additional crimes such as new offences, shifting policing priorities, different responses to specific segments of the ‘offending’ population.<sup>21</sup>

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<sup>20</sup> According to Addario, (2002) 40% of women do not believe that police involvement in their domestic abuse will result in a full police response, including arrest, trial, prosecution and jail time.

<sup>21</sup> This is recognized throughout criminology literature that looks at police performance and the ‘counting’ of crimes. See for example Crime Statistics: An independent review Carried out for the Secretary of State for the Home Department November 2006. See work by Tony Doob such as: Rosemary Gartner, Cheryl Marie Webster, and Anthony N. Doob (2009). Trends in the Imprisonment of Women in Canada. *Canadian Journal of Criminology and Criminal Justice*, 51(2), 169-198.

Prisons for women are more expensive than for men but the extra costs relate only to the numbers of inmates per cost of maintaining the facility and do not relate to ‘extra’ services such as skills training, enhanced treatment or recreational facilities. For example, in the Prison for Women before it closed, female offenders could work on an old computer with a volunteer who came in a couple of times per week, but there was no certificate programme in any of the ‘trades’ or employable occupation training that the women could take that might assist them in getting a job upon release. According to Correctional Service of Canada figures in 2004-05, the cost of incarcerating a Federal female prisoner (2004/05) was \$150,000-\$250,000 per prisoner/per year while the cost per male prisoner was \$87,665 per prisoner/per year. Provincial costs are quoted per day at \$141.78 (or approximately \$51,749.70 per year). All of these figures can be compared to the costs quoted for alternatives such as probation, bail supervision and community supervision range ranging from \$5-\$25/day (Statistics Canada 2005).<sup>22</sup>

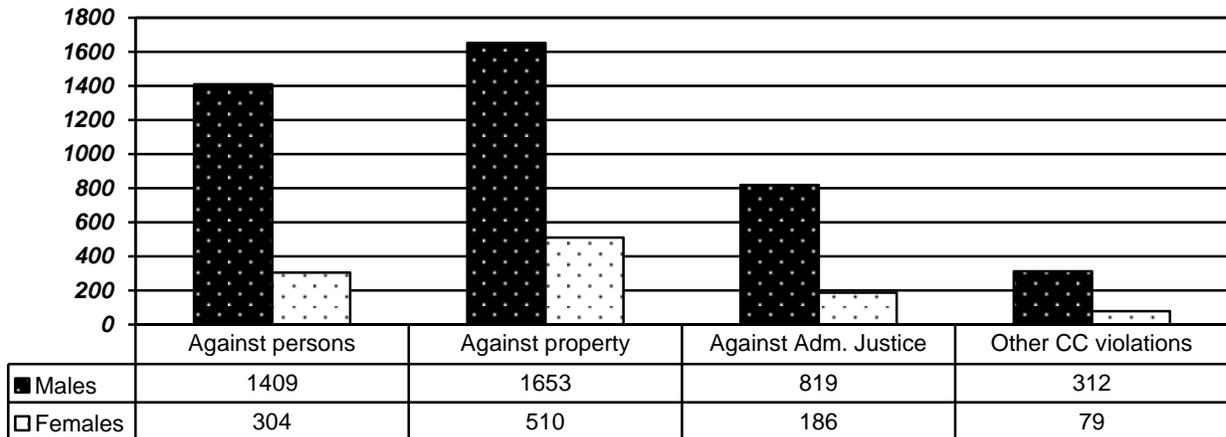
Based on 2007 Canadian statistics, since March 2003 there has been a 21% increase in the federal women offender population, 34% increase in the incarceration rate, and 12% increase in women offenders held within the community. According to Addario (2002), although the female offender population is very small compared to the male population, there has been approximately a 200% increase since 1990. As stated earlier, given the small numbers involved, a 200% increase does not equate to a massive crime-wave by women but does require analysis. In 2005, according to Statistics Canada, one-in-five people accused of a *Criminal Code* offence were female. International research suggests that this increase may not be an actual increase in female offending, but rather, this is linked to the under policing of women in the past or the newer ways in collecting criminal data which focus more on crimes that women commit (Heidensohn 1995; Rennison 2009).<sup>23</sup>

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<sup>22</sup> Source: [Juristat, Statistics Canada](http://www.vcn.bc.ca/august10/politics/facts_stats.html) Stats are all 2005/6. [http://www.vcn.bc.ca/august10/politics/facts\\_stats.html](http://www.vcn.bc.ca/august10/politics/facts_stats.html)

<sup>23</sup> See for example that Heidensohn (1995) and Rennison (2009).

**Females apprehended by police for crimes against the person at a rate 5 times lower than males, selected police services, 2005. Violation rate per 100,000 aged 12 years or older (Kong and AuCoin 2005)<sup>24</sup>**



The increase in female offenders has not yet lead to an increase in funding for women’s prisons and programs. According to Carmichael et al (2007)<sup>25</sup>, this lack of funding is related to an assumption that female offenders have the same needs as male offenders, which leaves women prisoners’ needs going unaddressed, such as their high rates of poverty, roles as primary caregivers to their children, and histories of abuse and addiction (Covington 1998; Heidensohn 1995; Phillips and Harm 1998). Chesney-Lind & Plasko (2004) agree and suggest that women’s top three needs after release are financial resources, transportation, and employment. They suggest that the convictions (as well as possibly the criminality) could be related to the income levels of the women accused; many women that have been arrested rely on legal aid or plead guilty without trial.

<sup>24</sup> Juristat. Female Offenders in Canada , by Rebecca Kong and Kathy AuCoin. P. 3 Statistics Canada. Catalogue # 85-002. Vol. 28. No. 1. Source: Statistics Canada, Canadian Centre for Justice Statistics, Incident-based Uniform Crime Reporting (UCR2) Notes: Excludes incidents where the sex and/or age of the accused were unknown. Data are not nationally representative. Based on data from 122 police services representing approximately 71% of the population of Canada in 2005. Rate per 100,000 population for the geographic areas policed by the UCR2 respondents, based on populations provided by Demography Division, Statistics Canada. Populations as of July 1st: preliminary postcensal estimates for 2005.

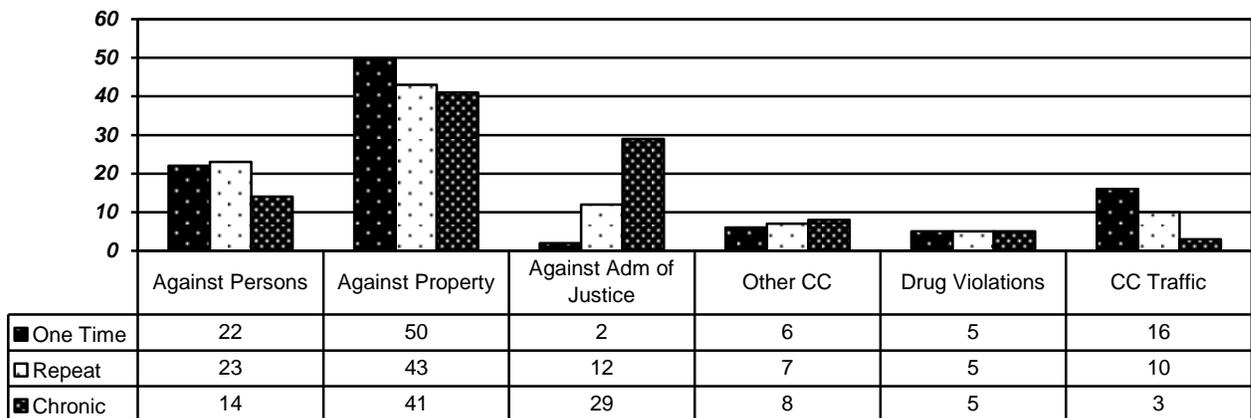
<sup>25</sup> Carmichael, S. et al. 2007. “The successful completion of probation and parole among female Offenders”. *Women and Criminal Justice*, 17(1), 75-97. See also Covington, 1998; Heidensohn, 1995; Phillips & Harm, 1998.

## 2.3 Types of Crimes

### 2.3.1 Minor offences

Canadian data conforms to the international literature. There are not many variances within the types of crime women commit. Chesney-Lind and Plasko (2004) analyzed the history of crimes committed by women and found that in Western countries women are most often incarcerated for minor offenses and are less involved with violent offenses; this is consistent from as far back as 14<sup>th</sup> century England. Kong and AuCoin's (2005) data, presented on the following charts, suggest that the most common offenses for Canadian females are common theft, common assault, bail violations, and fraud. Addario (2002) supports this, stating that Canadian women are mostly charged with minor offenses; theft, fraud and drug charges accounted for approximately 55% of charges in 1999, the most recent year for which data were provided. They also claim that many women are charged with a debt related offense, such as not paying fines. Similar statistics were found by Steffenmeier and Allan (1996) on Appendix B. Finn et al.'s (1996)

#### **Offences against the Administration of Justice account for almost 3 in 10 offences among chronic female offenders, (1995-2005)<sup>26</sup>**



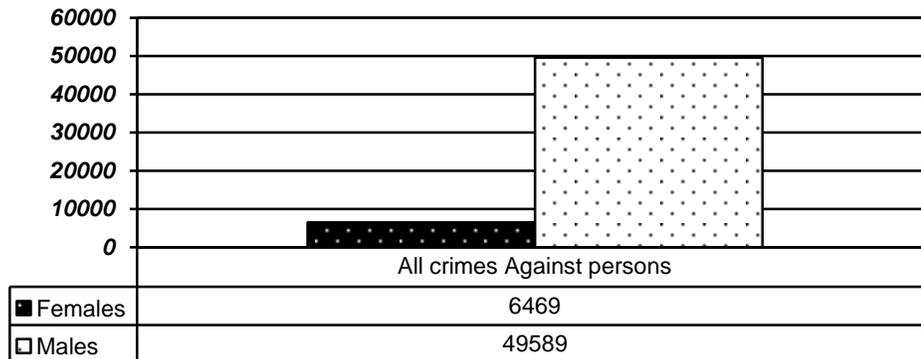
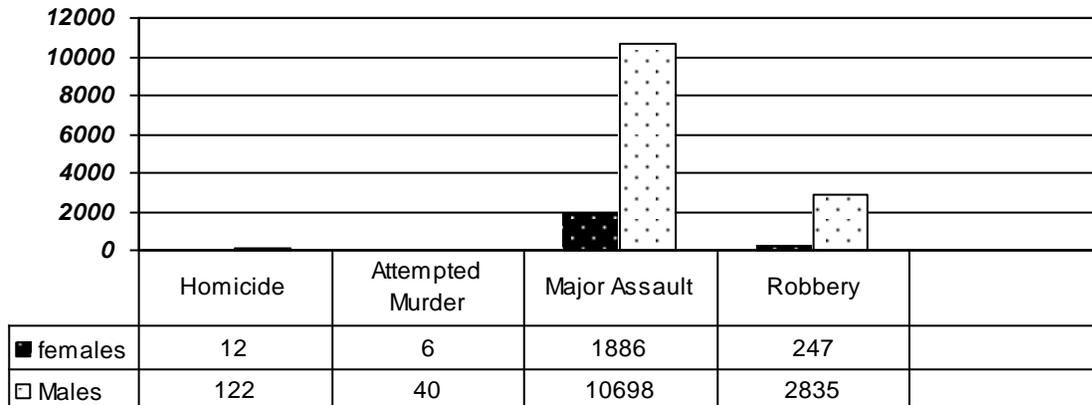
### 2.3.2 Violent Crimes

Canadian data supports international findings that women are much less likely than men to commit violent crimes and claim the most common female crimes are shoplifting, fraud, and

<sup>26</sup> Rebecca Kong and Kathy AuCoin . Juristat. Female Offenders in Canada . P. 3 Statistics Canada. Catalogue # 85-002. Vol. 28. No. 1. p. 6 (based on 64 selected police services.)

drug and alcohol violations. Spousal violence can play a significant role in the statistics regarding female convictions for homicide and attempted murder.

**Guilty Cases in Adult Criminal Court, by Most serious offence 2003-2004<sup>27</sup>**



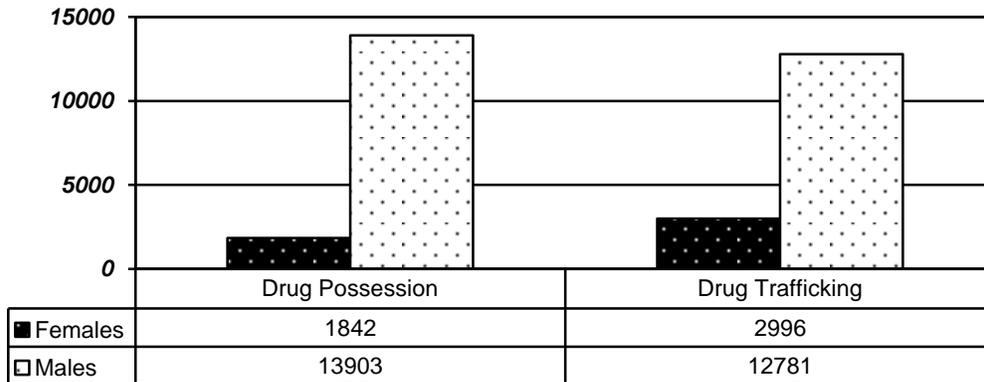
**2.3.4 Drugs<sup>28</sup>**

According to Grant (2009), drug charges in Canada were up in 2006, with 5.9% of these offenses being committed by women. The author suggests that the increase in drug charges is likely related to changes in drug policy and law. There has been a marked increase in women’s drug charges and incarceration due to the ‘crackdown’ changes to drug laws in Canada and the United

<sup>27</sup> Derived from Rebecca Kong and Kathy AuCoin . Juristat. Female Offenders in Canada. p. 21

<sup>28</sup> Note: The impact of current three-strikes, war-on-drugs, tough-on-crime government policies and will be discussed under the ‘Drug Mule’ criminal organizations heading later in this paper.

States (Chesney-Lind and Plasko 2004; Covington 1998; Phillips and Harm 1998; Schwartz and Steffensmeier, 2008).<sup>29</sup> Phillips and Harm (1998) claim that women who do go to court on drug charges are most often involved with low level drug offenses, i.e. trafficking of small quantities.



### 2.3.5 Financial Crimes and Fraud

Chesney-Lind and Plasko (2004) discuss men's and women's charges of embezzlement, claiming that women tend to steal smaller amounts of money or pocket money, while men steal large sums of money. The authors argue that this is likely due to women's employment in lower level positions, as they work under increased supervision, while men's access to upper level employment provides less supervision, making it easier to embezzle more money for longer periods of time without getting caught.

#### Selected Police-Reported Incidents, Canada and the Provinces/Territories, 1999<sup>30</sup>

Offence	Reported Offences	Adults Charged		Females as Percentage
		Male	Female	
<b>Homicide</b>	536	351	35	6.53
<b>Attempted Murder</b>	685	451	69	10.07
<b>Sexual Assault</b>	23,872	7,361	154	0.65
<b>Non-Sexual Assault</b>	233,465	80,467	15,045	6.44

<sup>29</sup> See for example Chesney-Lind & Plasko, 2004; Covington, 1998; Phillips & Harm, 1998, Schwartz & Steffensmeier, 2008.

<sup>30</sup> Canadian Centre for Justice Statistics, Canadian Crime Statistics, 1999 (Ottawa: Statistics Canada, 2000), pp. 15-16. Quoted in Department of Justice, *Six Degrees...* p. 18.

<b>Abduction</b>	726	92	61	8.40
<b>Robbery</b>	28,745	5,797	594	2.07
<b>(Total for Violent Crimes)</b>	291,330	95,382	15,987	5.49)
<b>Break and Enter</b>	318,448	20,880	1,416	0.44
<b>Theft Of Mot.Veh</b>	161,415	7,762	598	0.37
<b>Theft Over \$5000</b>	22,478	1,635	448	1.99
<b>Theft Under \$5000</b>	679,095	42,100	<b>17,712</b>	2.60
<b>Poss'n Stolen Prop.</b>	28,656	13,616	2,233	7.79
<b>Fraud</b>	90,568	17,535	7,132	7.87
<b>(Total for Property Crimes)</b>	1,300,650	103,528	29,539	2.27
<b>Prostitution</b>	5,251	2,296	2,607	49.64
<b>Drugs</b>	79,871	36,938	6,076	7.61
<b>Total Incidents</b>	2,613,348	429,239	83,911	3.21

As the chart indicates the largest number of female charges is for theft under \$5,000, with the second largest number being for non-sexual assault. The targeting of welfare fraud and other minor financial-need activities result in these large numbers. Under the organized crime sections the involvement of women in larger scale money laundering schemes will be discussed. As argued by Addario, one explanation for the number of non-sexual assaults may be the police practice of ‘counter-charging or double-charging.’ There is evidence to suggest that in some circumstances, the police determine that one way to ‘settle’ a domestic disturbance is to charge both the man and the woman.

## 2.4 Summary

The picture of women offenders that is supported by both the national, international and statistical data is of typically poor, marginalized women, who are often victims of abuse themselves, who commit a small proportion of crime as compared to men. Even though the numbers are small, services for these women are inadequate and tend not to take into account the differences between female offenders and male offenders. Research on ‘what works’ with female

offenders suggests that what is required to address the issue of women's involvement in crime is social support.<sup>31</sup>

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<sup>31</sup> See for example R. Sheehan, G. McIvor and c. Trotter *What Works with Women Offenders*, Willan Publ. 2008; R. Zaplin *Female Offenders: Critical Perspectives and Effective Interventions*, Jones and Bartlett Publishers, 2008.

## **3.0 Organized Crime Offenders**

### **3.1 Women Involved in Organized Crime**

The question now is whether or not this same general profile of the “typical” female offender applies to women who are involved in organized crime. One key question will be whether or not there are distinct categories of female offending. While we may find that the characteristics of some of the women are similar for some offenses, there may be some differences and those differences will be captured in the remaining sections of this paper. While the data may not be scientifically reliable, an array of sources will be examined in order to attempt to get a ‘picture’ of the women who are involved in organized crime: international media coverage; international data from government and non-government organizations; a limited number of academic articles and books that are available; Statistics Canada and Justice data; Court case testimony and verdicts.

The crimes that have been identified as being typically female crimes in the first part of this report fall more generally under a heading of “coping or survival” offenses, with frauds and theft under \$5,000 being main examples (which is not to suggest that there are not women who have engaged in more profitable criminal enterprises—they are just not the typical female offender). There are reasons why women’s involvement in organized crime might reveal a different profile of women than the wider female offender population.

While it is necessary to generalize, there are a number of characteristics that would be advantageous in order to take an active involvement in organized crimes of various sorts. Transnational organized crime such as trafficking in person, drug trafficking and money laundering might require:

- a degree of ‘professionalism’ in terms of planning, scheduling;
- the personal attributes/demeanor that instills confidence and trust;
- a financial base for ongoing investment in criminal enterprises;
- literacy and some familiarity with international laws, policies, practices;
- access to international networks, contacts at source and destination country;

- the ability to travel and access to passports, bank accounts, credit cards;
- a risk-taking attitude that balances the lucrative gains against the dangers; and
- a knowledge of accounting—or access to accountants and lawyers.

The “typical” female offender that we have discussed so far does not match these characteristics and yet we know that women have been taking what is claimed to be an increasing role in either running or partnering in various organized operations. This distinction was acknowledged in the Correctional Service of Canada study of inmates in prison under the criminal organizations legislation. The research emphasized that unlike the general prison populations, those offenders (one assumes males and females) charged under this legislation tended to have “more lifestyle stability (be married, employed and healthy)” (Motiuk and Vuong 2009).<sup>32</sup>

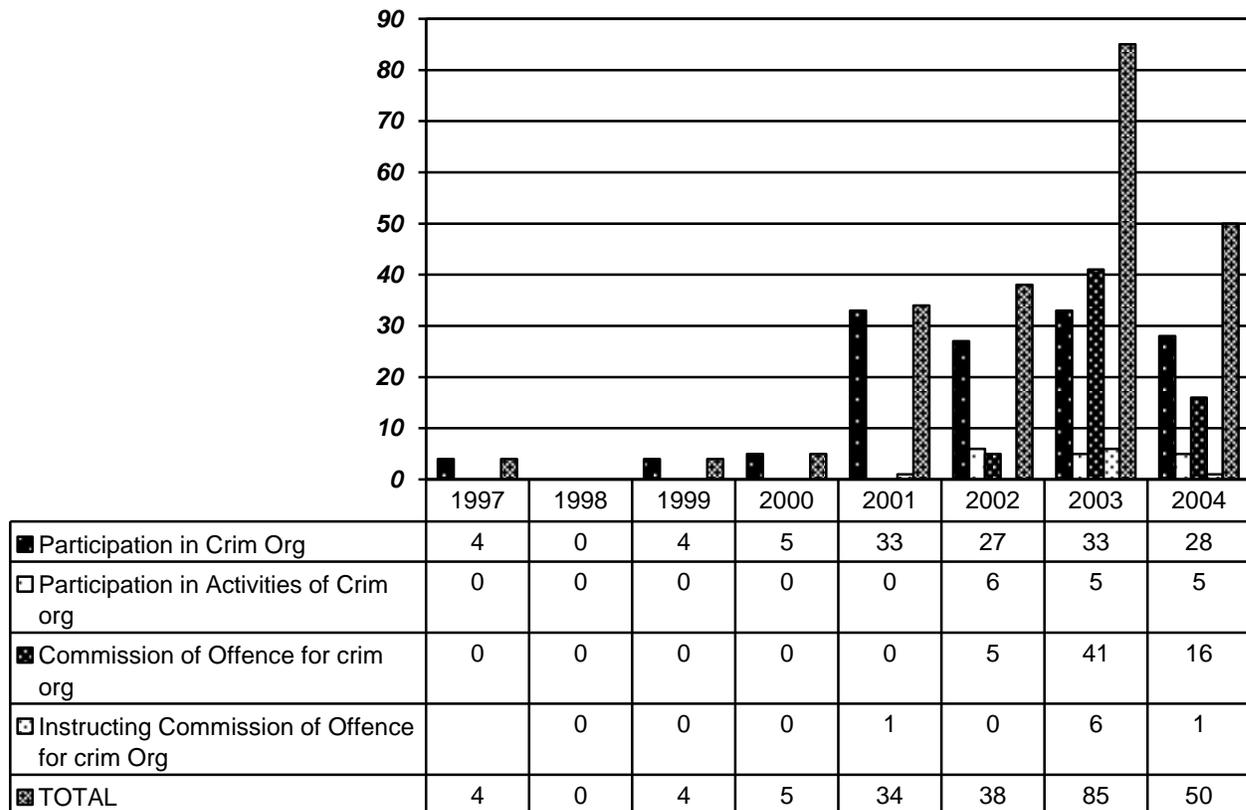
### **3.1.1 Criminal Organizations: Statistics**

The Canadian legislation pertaining to criminal organizations is relatively new (1997, amended 2001) and very few males or females have to date been convicted under it. Correctional Service of Canada collected the first data relating to this legislation for a 2005 publication. The following chart presents their data.

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<sup>32</sup> Laurence Motiuk, Ben Vuong 2009 [Prison Careers of Federal Offenders with Criminal Organization Offences: A Follow-up](http://www.csc-scc.gc.ca/text/rsrch/briefs/b42/b42-eng.pdf). N° B-42 <http://www.csc-scc.gc.ca/text/rsrch/briefs/b42/b42-eng.pdf>

### National Distribution of Annual Federal Admissions with Criminal Organization Offences (1997-2004)

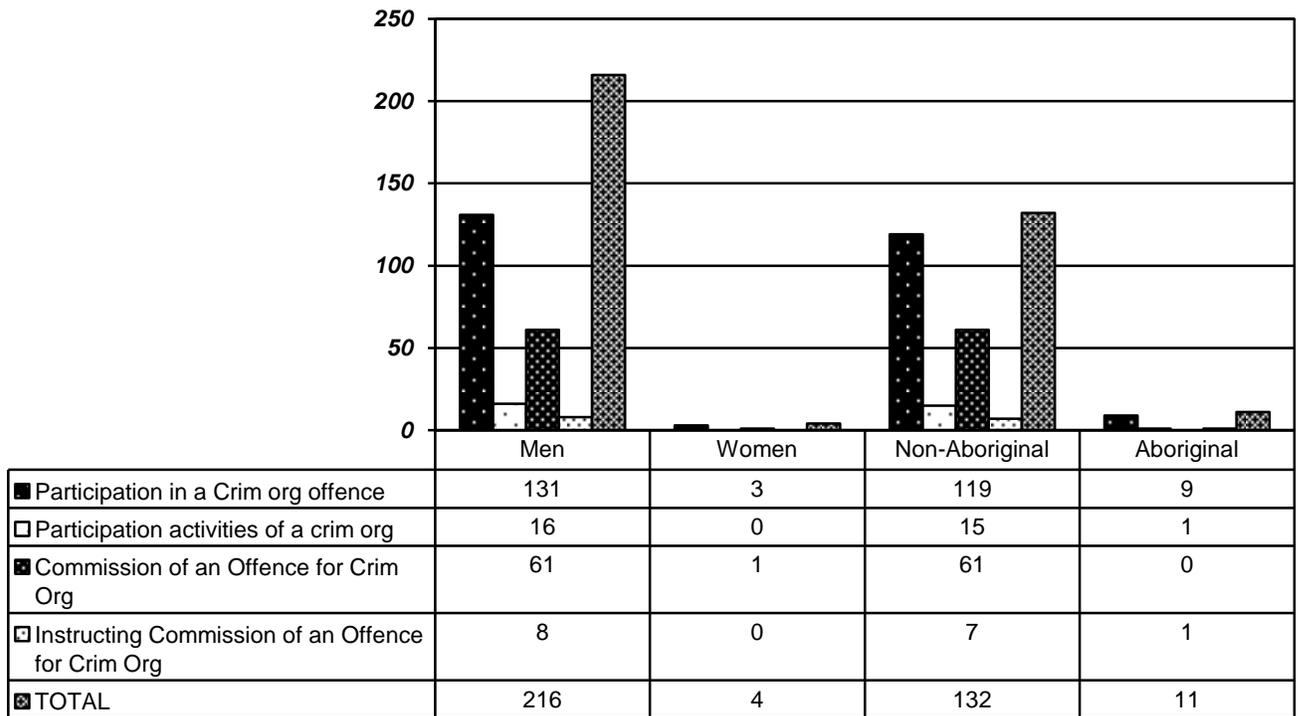


For the purpose of this report, it is of note that 61% of all of the criminal organizational cases are for the ‘participation’ offence—the lowest ‘tier’ of charges under this legislation. The following chart provides the gender and ethnicity of those charged. With only three women convicted under the participation category and one under the commission offence, we cannot learn much about the involvement of women as of 2005—at least from the conviction data (Motiuk and Vuong 2009).

There is a danger in trying to generalize from the characteristics of the males involved in these types of crimes especially with such small numbers of women. We know that in addition to the ‘liberated’ female criminal entrepreneurs there is a separate population of women whose involvement is less voluntary and may be more akin to an exploited relationship under the control of those in charge of these operations. To date, the other finding from this data is that

both women and Aboriginal offenders are underrepresented in criminal organization offences when compared to their proportion in the general prison population.

### Criminal Organization Offence Group Comparisons: Demographic Variables<sup>33</sup>



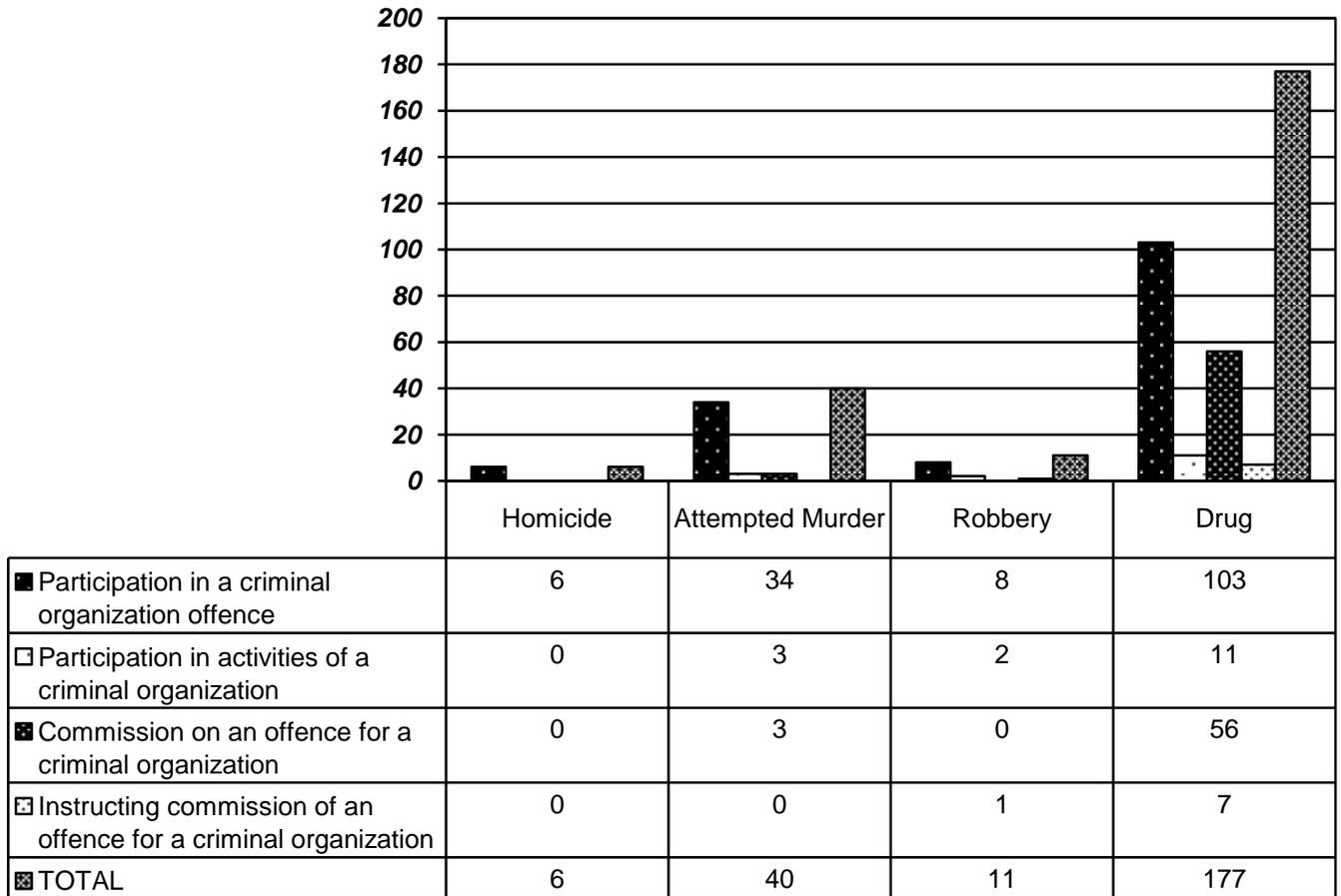
There may, of course, be a number of reasons for the low statistics in terms of women having been charged and convicted under this legislation in Canada—either women are less involved, or they are more sophisticated and are not being caught, or they are being caught but charged only with the predicate-type offenses, or their involvement is being dismissed as not actually integral to the criminal operations. The correct answer may be a combination of all of these factors— together with the fact that the legislation is still very new.

At intake, 71% of the total population convicted under the criminal organization legislation were identified as belonging to a biker gang; 12% with traditional (Italian) organized crime; 3% in Aboriginal gangs; 1% Asian gangs; less than 1% street gangs, and 12% with no identified gang

<sup>33</sup> Laurence Motiuk and Ben Vuong 2005. *Federal Offenders with Criminal organization Offences: A Profile*, CSC May 2005. <http://www.csc-scc.gc.ca/text/rsrch/briefs/b38/b38-eng.pdf>

type (Motiuk and Vuong 2009, 10). It is not known with what groups, if any, the four convicted women identified. The criminal organization offences were coupled mainly with drug offences—80% of Federal admissions with criminal organizations charges also received drug sentences (and in some cases serious violent crimes).

**Major offences for Federal Admissions with Criminal Organization offences<sup>34</sup>**



The available statistics do not tell us about the females who are incarcerated on criminal organizations charges. Likewise, because of the nature of the criminal organizations offences and the extra long sanctions that apply if you get charged under the criminal organizations legislation, suspects are ‘encouraged’ to plead guilty in exchange for having the criminal

<sup>34</sup> Laurence, Motiuk and Ben Vuong. 2005. *Federal Offenders with Criminal organization Offences: A Profile*, CSC May 2005. <http://www.csc-scc.gc.ca/text/rsrch/briefs/b38/b38-eng.pdf>

organizations charge dropped. The statistics would then indicate the offender committed what might be called the ‘predicate offence’ instead of that specific offence and the criminal participation offence. This results in an inaccurate count of criminal organizations violations.

When the legislation first came into force the Department of Justice in response to claims that it was not being used with any success or frequency, it was claimed that a ‘strength’ of the legislation was that it encouraged plea bargaining and guilty pleas. *The Manitoba Warriors Case (R v. Pangman)* was the first case that made use of the legislation. In November 1998, the Crown preferred a direct indictment against 35 accused on a variety of charges, mostly relating to drug and weapons possessions, including a charge of “participating in a criminal organization” under s.467.1 of the *Criminal Code*. All of the accused were members of a largely Aboriginal street gang, called *Manitoba Warriors*. The case was discussed as constituting a “test case” for the newly enacted participation offence. However, only two minor participants were ever charged under the legislation—as a result of plea-bargaining, the charge of “participation in a criminal organization” was dropped against all of the remaining members (*R. v. Pangman* 2000).<sup>35</sup> While critics claimed that this tremendously expensive ‘show’ trial had been an embarrassment which if anything perhaps enhanced the reputation of the *Warriors*, Justice officials argued that it was the ‘threat’ of the “criminal participation” offence that encouraged the accused to plead guilty and in this way the case can be viewed as successful (Beare and Orlova 2005).<sup>36</sup>

Therefore, the question is how to reach the ‘lost’ criminal organization cases? One way might be to look at those offences that ‘tend’ to coincide with criminal associations charges. The following chart provides some male and female statistics of ‘most serious’ offences that might be linked to organized crime participation.

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<sup>35</sup> See *R v. Pangman* [2000] M.J. No.125 at para.7-8; *R v. Pangman* [2001] M.J. No.217 at para.3; Don Stuart, as *ibid* at para.29.

<sup>36</sup> *Preliminary Examination of the Formal Application of the Criminal Organizations Provisions of the Criminal Code*. 2005. Report Prepared for the RCMP Research & Evaluation Branch , by Margaret E. Beare and Alexandra V. Orlova, Unpublished.

**Guilty cases in adult criminal courts, by most serious sentence for the most serious offence in the case, by sex of the offender, Canada, 2003/2004<sup>37</sup>**

<b>Male Offenders</b>					
<b>Most Serious Offence</b>	<b>Total Convictions</b>	<b>Prison</b>	<b>Conditional Sentence</b>	<b>Probation</b>	<b>Fine</b>
	<i>Number</i>	<i>Percentage</i>			
Total offences	215,447	38	5	29	26
Homicide	122	93	2	3	0
Attempted murder	40	83	0	15	0
Robbery	2,835	76	7	16	0
Fraud	8,191	40	9	37	11
Possess stolen property	8,573	53	5	26	14
Weapons	3,290	33	4	35	23
Drug possession	5,445	20	2	24	496
Drug trafficking	5,865	45	32	11	10

<b>Female Offenders</b>					
<b>Most Serious Offence</b>	<b>Total Convictions</b>	<b>Prison</b>	<b>Conditional Sentence</b>	<b>Probation</b>	<b>Fine</b>
	<i>Number</i>	<i>Percentage</i>			
Total offences	34,691	26	7	40	24
Homicide	12	75	17	8	0
Attempted murder	6	50	0	50	0
Robbery	247	62	12	26	0
Fraud	3,156	20	17	52	6
Possess stolen property	947	34	6	45	12
Weapons	186	26	5	51	13
Drug possession	680	26	3	35	30
Drug trafficking	874	36	42	15	6

(Note: Only those offenses most 'traditionally' related to organized crime are represented.)

This provides us with some notion of the numbers of female offenders in crimes that might be 'predicate' offences committed in relation to criminal organizations, but without more extensive research involving interviews with criminal justice officials there will be no way to determine the histories of those cases.

### **3.2 Literature Review**

The literature categorizes organized female crime in several ways: teenage girls in street gangs, women in the mafia, woman as 'mules' usually for male traffickers, and women in criminal gangs. This literature leaves out two areas in which the international community is becoming increasingly interested in the roles of female offenders: women as active participants in human

<sup>37</sup> Source: Adapted from Statistics Canada, Canadian Centre for Justice Statistics, Adult Criminal Court Survey. Kong, R. & AuCoin, K. (2005). P. 21 <http://www.statcan.gc.ca/pub/85-002-x/85-002-x2008001-eng.pdf>

trafficking operations and money laundering. Much more research is required in looking at the women offenders who perhaps make up each of these possibly quite distinct populations.

As with all types of crime, women's involvement with organized crime is statistically very small but all indications are that it has risen slightly, with some women participating at higher levels or holding leadership positions (Anott, 2010; Carroll 2001). In Italy, only one woman was indicted for mafia associated crimes in 1990; five years later this number had risen to 89 (Carroll, 2001; Campbell and Wilan, 1999). Some of the most popular organized crime rackets are drug trafficking and distribution, gambling, control of sex trafficking and sex work, and organized extortion (Block, 1981). The involvement of women will be discussed in some detail under the separate subheadings.

Some of the literature suggests that unlike most other forms of female criminality, the rise of a few women in organized crime could be linked to women's more active participation in the paid workforce (Carroll 2002; Fiandaca 2003; Wolf 1998). Conditions that allow women to travel and make international contacts may be a 'liberating' change that does enable some women to participate in specific forms of criminal activity. Just as the male organized criminals had somewhat better prospects in terms of education, stability of family life and health, some of the women may also demonstrate a degree of power.

However, there is literature that indicates that women most often begin participating in organized crime through a relationship with a male who is currently involved, such as a boyfriend, husband, father, brother, or friend (Anott 2010; Block 1981; Carroll 2000; Kleemans & dePoot 2008; Pizzini-Gambetta 2009; Siebert 1996; Schwartz and Steffensmeier 2008; Steffensmeier 1983). Women in the mafia often step into active crime roles when a male they are close to is imprisoned, on the run, or dies (Campbell & Willan 1999; Carroll 2000; Carroll 2001; Carroll 2002; Fiandaca 2003). Anott (2010) makes a similar argument about teenage girls in gangs in Vancouver.

There may be an 'administrative' record keeping function that women are 'allowed' to do within criminal organizations—even those organizations that typically do not grant equality to females.

For example, Carroll (2002) and Campbell and Wilan (1999) suggest that women are increasingly being represented in money laundering schemes, and Kleeman and dePoot (2008) state that women in organized crime are often bookkeepers and become skilled at hiding and moving large sums of money. Wolf (1998) agrees with this: his study of women in biker gangs revealed that women work in lower level administration positions and the author also suggests that women's positions are seen as inferior to those held by men.

In *Biker Chicks* we are given a number of explanations for why the women associate with and 'participate' in the activities of the outlaw motorcycle gangs. Evidence suggests the men control criminal activity as well as all other activity within the gang. It is suggested that the females who associate with the clubs while seeing themselves enjoying the 'wild-side' are actually more subservient than the average woman—otherwise she would not last long in the club (Veno and Winterhalder 2009, 245)

Schwartz and Steffensmeier (2008) argue that women in organized crime are underrepresented in crimes that offer more significant financial compensation, such as burglary, fencing, gambling and racketeering and those women's roles have not changed drastically from the sixties and seventies. Steffensmeier's (1983) discussion about women's poorly paid and subordinate roles in organized crime suggests that this is similar to the work conditions and types of jobs women obtain in the legitimate paid labor market. He would agree with Wolf that there is significant sex segregation in male and female roles in criminal enterprises; although women may participate in criminal activities, they are not usually organizing it. Steffensmeier (1983) suggests several reasons why women play subordinate roles in organized crime, including women being viewed as less trustworthy, not being able to physically intimidate, or that they are less capable. He also argues that the more 'professional' an organized crime groups attempts to be, the less likely they are to have women actively working for them—which may not be true based on international trafficking and smuggling information. Different criminal activities may reveal different female roles and it is best to examine the individual criminal groups or criminal markets.

### **3.2.1 Female Street Gang Members**

In March 1994, the Federal Ministry of the Solicitor General (now Public Safety Canada) released the research report *Youth Gangs on Youth Gangs* by Frederick Mathews, which offers some insight into the phenomenon from the perspective of youth involved in illegal gang activity.<sup>38</sup>

Although the majority of members are male, some gangs/groups include members of both sexes and some consist of females only. The respondents reported that girls involved in gangs/groups commit acts of interpersonal violence that are equally as violent as those perpetrated by boys.

More recent research provides inconclusive information on the frequency or seriousness of female gang criminality. There is some debate over the role that teenage girls play in street gangs. This is highlighted by Anott (2010), who suggests that while some people make an argument that girls are now becoming more violent and more involved in street gangs, others argue that teenage girls have always been involved with gangs and that it is just becoming more visible due to increased media attention. Miranda (2003) argues this point, and states that teenage girls who socialize within a tight group of friends and participate in some level of physical fighting can be labeled a street gang by community members, even if they do not personally identify in that way. Tuesday (1998) states that girls in street gangs often do not act in traditionally feminized ways, as they express anger and aggression, or can have violent tendencies; yet many of them also have traditional feminized goals, such as ambitions for marriage and children. Schwartz and Steffensmeier (2008) link girls' involvement in street gangs to their race and class, and suggest that girls in street gangs are not simply cheering on boy gangs, but actively pursuing their own agendas in 'women only' spaces.

According to the Toronto Police, the involvement of females in violent crime remains low compared to males, however there has been an increase in female youths involved in violent crimes. In 1999, the number of female youths charged for violent crimes increased about 26% since 1990, compared to a 37.3% increase for male youths (Toronto Police Service 2000).<sup>39</sup> The

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<sup>38</sup> <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/MR/mr123-e.htm>

<sup>39</sup> <http://www.torontopolice.on.ca/publications/files/reports/2000envscansummary.pdf> Toronto Police Service, 2000 ENVIRONMENTAL SCAN: HIGHLIGHTS. What we do not know from this figure are the actual numbers that were involved. As we said earlier—a 26% increase from a very small number of incidents might still result in very few cases.

point must be emphasized that the percentage of all incarcerated offenders affiliated with any gang between 1996-2003 was at the most 5% (Nafekh and Srys 2004, p.i). According to a 2003 CSC study conducted by Andrew Mackenzie and Sara Johnson:

“...the findings portray an image of female gang members as aggressive, antisocial women, with poor education and unstable employment histories, who have had prior experiences with the criminal justice system for serious and/or violent offences as youth and adults” (Mackenzie and Johnson 2003).

The thought might be that these links are increasing and could conceivably be higher today. The point however must be emphasized that the number of females incarcerated is small and the number of females with a gang affiliation at the highest level was less than 6% of the offender population.

The wider topic of ‘gangs’ is too broad to be fully explored by this paper, however, some recent Canadian government research does emphasize the links between street gang activity and more traditional ‘organized crime’ operations. In addition, a gang that is involved in serious crimes can itself be considered a criminal organization if it meets the following two characteristics:

- composed of three or more persons, and
- have as one of their main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of material benefit, including financial benefit, by the group or by any of the persons who constitute the group (*Criminal Code* Section 467.1).

This perhaps speaks to the broad definition of criminal organizations under the *Criminal Code*. As CSC states:

gangs and organized crime are not mutually exclusive, rather that they are distinguished by the degree of sophistication and entrenchment of the criminal activity. That is, gang activity and organized crime activity differ only in their degree of magnitude, not necessarily in the nature of the offence. (Mark and Stys 2004, 1) <sup>40</sup>

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<sup>40</sup> The authors continue on to say “For this reason, the terms ‘gang’ and ‘organized crime’ will be used interchangeably in this paper.” A point that was emphasized at the Summit on Gangs that was held in Toronto, March 2010 was that not all ‘gangs’ should be considered as ‘organized crime’ but perhaps given that CSC would be referring to a convicted population, the blurring of the term gang with organized crime is perhaps legitimate.

The Toronto Police have brought criminal organization charges against various gangs in Toronto which have resulted in what is called ‘mega-trials’. In these cases somewhat peripheral family members are included in the charges often under the ‘participating’ section of the legislation. There have not been a significant number of females charged in these gang cases. However, an analysis of police wire-taps collected for the prosecution of members of the ‘Malvern Gang’ in Toronto was carried out in order to try to determine whether there was active participation by the women caught on the tapes (Beare and Hogg 2010).<sup>41</sup> All that could be gathered from the phone conversations was a supportive ‘girlfriend’ type of role that involved some minor assistance in the group’s activities but no leadership roles were revealed. However, one of the women on the tape was arrested and convicted and the details are presented below (R. v. Villella 2006).<sup>42</sup>

*R. v. Villella* - Villella was convicted of 14 counts related to a conspiracy to import prohibited firearms and export narcotics. She initiated a plan to import marijuana to the United States resulting in the return of cash or other contraband to Canada. Villella assisted in the plan at least three times before her arrest, delivering money, and assisting in the movement of firearms across the border. The narcotics and firearms were delivered or sold to a criminal organization, but no evidence was found that Villella was aware of the distribution. Villella was 27 years old and was a former social worker and was working at a fitness facility.

This was deemed to be a criminal organization case because her actions were in relation to the Malvern Gang. Villella was fined \$1,000 and sentenced to concurrent custodial terms of two years, less two days plus two years probation. The paramount sentencing principles were deterrence, denunciation and rehabilitation. The fact that the offences were committed in association with a criminal organization was noted; however, the offender played a limited non-leadership role in the conspiracy and had no knowledge of the subsequent distribution of the firearms. Mitigating factors included the lack of prior convictions, and the offender's capability of making a meaningful contribution to society. Her ‘good character’ and abundant potential was balanced with the moral outrage in the community regarding the exceptional seriousness of the offences.

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<sup>41</sup> M. Beare and C. Hogg. 2010. Unpublished analysis, on-going research.

<sup>42</sup> R. v. *Villella*, [2006] O.J. No.4690.

In a second gang related case, the mother of a Wolf Pack gang member was removed from Canada under an immigration order following the decision that her affiliation with her son connected her to a criminal organization (*Castella v Canada* 2008).<sup>43</sup>

*Castelly V. Canada (Minister of Citizenship and Immigration)* - The panel of the Immigration Division of the Immigration and Refugee Board made a removal order against Castelly because she was found to be inadmissible to Canada under s. 37(1)(a) of the Immigration of Refugee Protection Act by reason of organized criminality. Castelly challenged the lawfulness of the findings of fact of the panel that she was a member of an organization involved in criminal activity — The Act did not require the existence of criminal charges or a conviction — Furthermore, it was not necessary to demonstrate that the person concerned is a member of an organization, but rather that there were reasonable grounds to believe that he or she is a member — The panels' finding that there were reasonable grounds to believe that Castelly was a member of an organization involved in criminal activity was reasonable and supported by the evidence Immigration of Refugee Protection Act, s. 37(1)(a).

An electronic tap of Castelly's telephone line demonstrated that Castelly's residence was used as a meeting place for Wolf Pack and her telephone line was used for the group's criminal activity. The investigation resulted in the arrest of a number of people, including Castelly's son, on charges related to youth prostitution. A number of other people, including Castelly, were arrested under a peace bond and declared collaborators. The panel found that Castelly was inadmissible to Canada under s. 37(1)(a) of the Immigration of Refugee Protection Act by reason of organized criminality and made a removal order against her.

### **3.2.2 Women in the Mafia**

As mentioned earlier, there has been an indication of an increase in women's involvement with the active roles in the mafia. According to Fiandaca (2003) women typically take three roles in the mafia:

- a support system for men (such as raising children and taking care of their domestic needs);
- defending mafia men (such as insisting on vengeance if one of her family members has been harmed); and

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<sup>43</sup> *Castelly v. Canada (Minister of Citizenship and Immigration)*, [2008] F.C.J. No. 999.

- becoming involved in criminal activity.

There is another side to women's participation of the mafia—the roles that mothers and wives of mafia men play, that support and perpetuate the family connections and values of the mafia. Campbell and Wilan (1999) and Longrigg (1997) describe mafia wives and mothers as being the moral reference point for children, especially when the children's fathers are on the run or in jail. The authors also suggest that it is the intergenerational passing down of these morals and values that ensure that the spirit of the mafia lives on. Longrigg (1997) gives the examples of mafia mothers raising children sealed off from law abiding society or exposing children to prisons when they visit family members who are incarcerated.

According to Pizzini-Gambetta (1999) women have important roles in organized crime. While she is identifying the roles the women play within the family as being important, she is not referring to important operational roles within the criminal enterprise. In her research in Italy she found that the job of women was to support the men emotionally and domestically, as well as care for the children. Just as the notion of 'the family' carries symbolic significance when describing the mafia, the personal family of mafia men also holds great significance; particularly women's roles as nurturers within the family (Fiandaca 2003; Longrigg 1997; Pizzini-Gambetta 1999).

The question of course arises that given the 'participation' aspect to our legislation, when does one actually facilitate the criminal activity? Giovino and Brozek (2004) discuss the role of the mafia wife, stating that while the wives may not understand the details of their husband's jobs, they are very aware that it is illegal and sometimes play minor roles in the criminal activities. Siebert (1996) argues that even if mafia women do not actively participate in criminal acts, they enjoy the money and power that is derived from the work of their husbands. Pizzini-Gambetta (2007; 2009) claims that women married to mafia men often come from poor economic backgrounds, and they become involved with men that engage in criminal activity as a way to gain economic security; in essence, marriage and kinship to mafia men provides a way out of poverty. She claims further that no woman has been formally inducted to the Italian mafia, and that part of the reason for women's exclusion is due to traditional views of women and

femininity. For example, women are viewed as needing male protection, therefore the mafia would be too dangerous for women; there is a significant distrust of women's ability to keep secrets.

Whether a change in roles is occurring within the mafia is debatable. Carroll (2002) and Longrigg (1997) suggest that women are shifting from loyal, submissive housewives to being involved in everyday practices of criminality. The question is raised that perhaps women's roles in the mafia are overlooked as insignificant, when in fact a closer look might reveal that there is evidence that they actively participate in loan sharking, extortion, and the drug trade. Fiandaca (2003) claims that women in the mafia are often linked to drug crimes. While Pizzini-Gambetta (2007) suggests that it is difficult to gain information about women in the mafia because it relies so heavily on biography which may be either biased or just wrong.

One problem with some of the research into the role of women in the mafia is the definition of the mafia. Fiandaca (2003) defines the mafia as:

Systems with specific authorities, regimes, and structures, each of these systems interact with its environment, which consists in turn of other subsystems: political, judicial, economic, social, and so on; this interaction is necessary precisely because of the lack of autonomy in the systems themselves, which have no impermeable borders. (289)

As Pizzini-Gambetta (2008. 352) stated in a review of Fiandaca's book: "It would be surprising not to find roles for women in what seems to encompass the whole of society". She quotes Giovanni Falcone who pointed out that "when everything is mafia, nothing is mafia". After her review of the papers making up the Fiandaca collection, she concludes that while women do hold important roles in organized illegal trades, mafias membership is still 'essentially no land for women'.

Ernesto Savona and Gioacchino Natoli (2003) provide an interpretation of female roles in the mafia. Based the largest amount of literature, women typically have supportive family-oriented roles in the mafia but may take over managerial and leadership functions if something happens to the males—leading one to assume that there are gendered roles in the mafia that women assume only in a situation of crises. Furthermore, the literature indicates that females internationally

commit far fewer crimes than males and that their participation in crimes decreases as the level of violence required to carry out the criminal activity increases (Savona 2003, 104). A low robbery rate is one example, and they argue that a relatively higher rate for murder is due to the emotional component—and possibly, as we saw previously, involving self-defense. They suggest that as transnational crimes move toward economic forms of criminality and operate via smaller networks, with a more flexible command structure, women's roles may increase further. They conclude therefore with the hypothesis that: the less violence required and the greater the flexibility of the criminal organization, the greater is women's participation in management and leadership roles. Ernesto Savona and Gioacchino Natoli suggest that this is an area requiring further research (Savona 2003, 106).

The data presented by Varese (2006) contributes to the debate regarding the role of women in organized crime, and suggests that women are much more involved in decision making than previously believed (Fiume 1990; Sibert 1994; Principato and Dino 1997; Madeo 1997; Longrigg 1997; see also Pizzini-Gambetta 1999 and 2007; Schneider 2006; Fiandaca 2007). Varese determines that while women do not use violence directly, they perform a 'behind-the-scenes' function in this capacity. In particular, women are involved in discussing sensitive issues such as the use of violence and the appropriate level of punishment, the managing of internal order, and are entrusted with funds by acquiring informal authority. Women, and kin relations more generally, can be seen as a functional substitute for trust within informal and criminal organizations (Varese 2006).

The mafia is a very specific form of organized crime, and has traditionally been a very male dominated area. In many cases, mafia based groups may be less open to women in dominant roles because in order to monopolize across various illegal markets, the ability to intimidate is a key determinant of one's standing, however, some research has indicated that women employ behind the scene roles in this area. Other organized crime operations that are more 'entrepreneurial' and are open to those who have access to a supply of illicit goods, transport, and/or distribution, may be more gender blind and open to the emancipation of women.

### 3.2.3 Trafficking in Persons

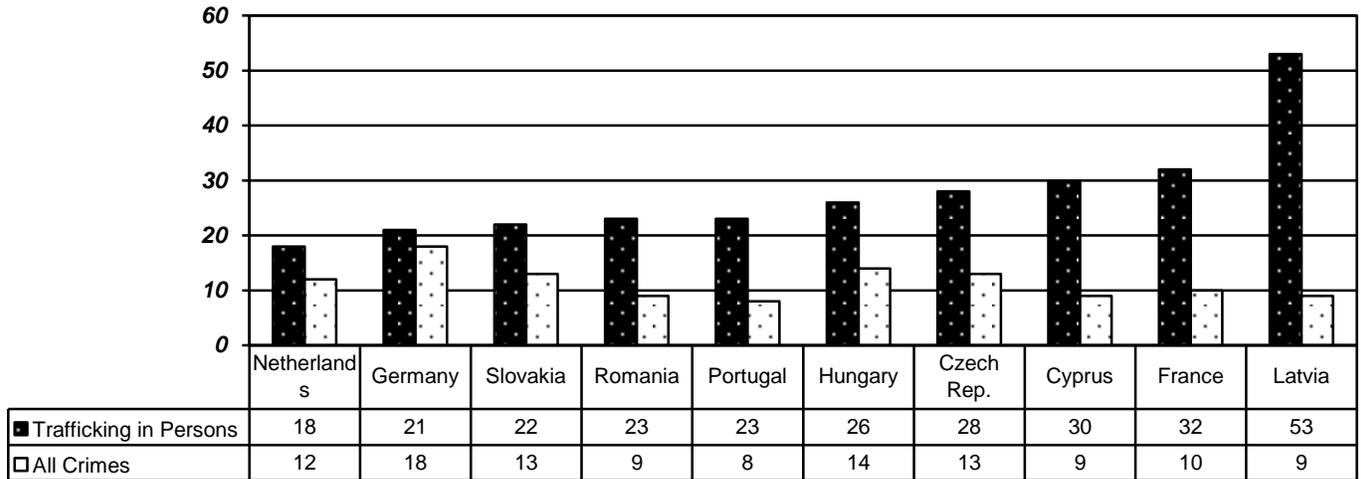
The 2009 report from the UNODC under the heading “A knowledge crisis about a crime that shames us all” presents its finds on human trafficking. For our purposes, the most important finding relates to the large percentage of women who are active participants, including being ‘in charge’ of these trafficking operations. The report states:

Men make up over 90% of the prison populations of most countries and are particularly over-represented as perpetrators of violent crime. It might be assumed that human trafficking, where violence and threats are keys to the business, would likewise be overwhelmingly male dominated. But, surprisingly, the data on the gender of those convicted for trafficking in persons do not support this premise. The data gathered on the gender of offenders in 46 countries suggest that women play a key role as perpetrators of human trafficking. In Europe, for example, women make up a larger share of those convicted for human trafficking offences than for most other forms of crime.” (UNODC 2009)

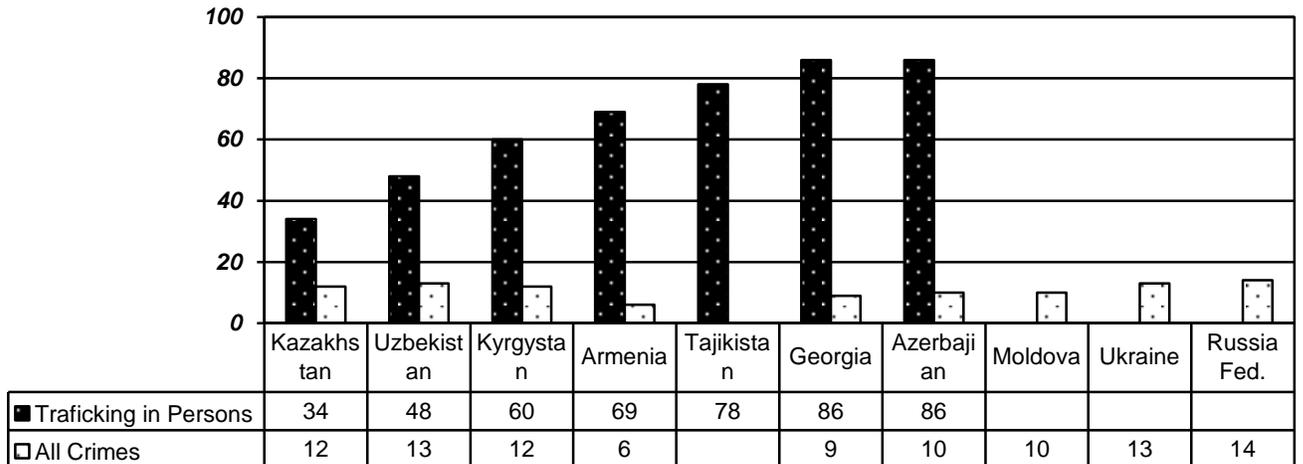
It is difficult to compare numbers of women involved in trafficking operations across the various countries because in some jurisdictions the figures refer to ‘investigations’, and in other cases the data refers to women who are ‘prosecuted’ and/or actually ‘convicted’. Also, one cannot assume that the laws are exactly the same, enforcement abilities may be quite different, and not all years are collected in every jurisdiction. With those difficulties acknowledged, the following charts indicate that across various countries trafficking in women is a gendered offense and women are active participants. However, when you shift to a different region, the women are being investigated and convicted but are represented in a significantly lower percentage of the trafficking cases.

From the following two charts one can see that the areas of particular concern are Eastern Europe and Central Asia with significant concerns in many other regions. The data shows that the percentage of women (as compared to men) convicted for all crimes did not rise above 18% and was usually considerably lower, whereas the percentage of women convicted for the crime of trafficking in persons is in every jurisdiction higher—and in the Eastern European countries reaches as high as 86%. (UNODC p.47)

**Proportion of females in convictions for trafficking in persons and for all crimes combined in Europe**

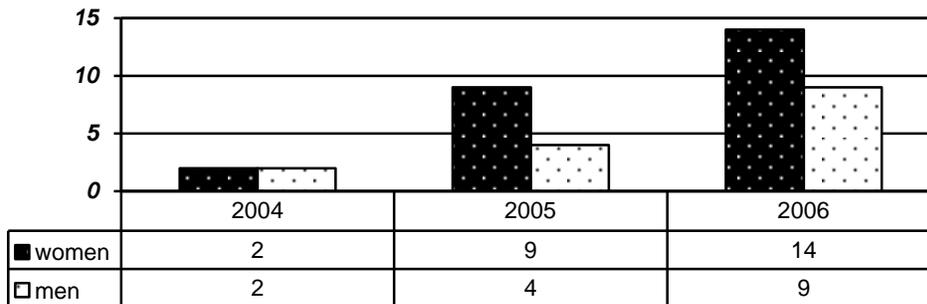


**Proportion of females in convictions for trafficking in persons and for all crimes combined in Eastern Europe and Central Asia**

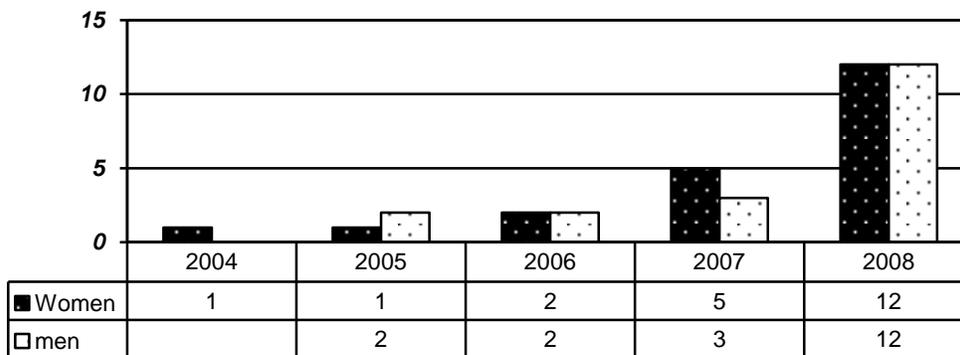


Several of the countries in the United Nations (UN) survey are worthy of additional attention. The media has provided some insight into the involvement of Nigeria in human trafficking—and specifically the role of women in this criminal enterprise. The following data appear in the UN 2009 report.

**Persons Prosecuted for trafficking in persons in Nigeria, by gender (2004-2006)**

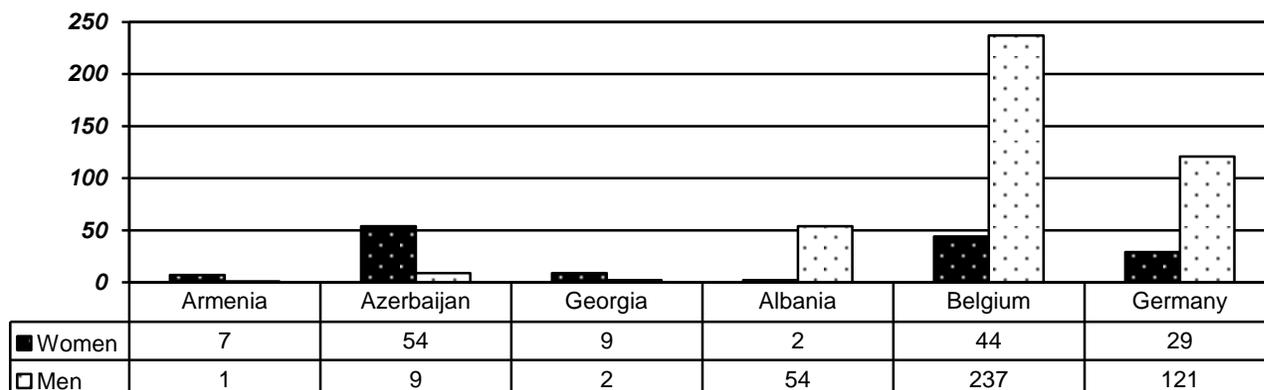


**Persons Convicted for trafficking in persons in Nigeria, by gender (2004-2008)**



Reports out of Lagos speak of trafficking being conducted as a ‘cottage industry’ rather than by more organized criminal syndicates. Nigerian men and women—apparently in near-equal numbers recruit girls and smuggle them into Italy where it is claimed that the Italian organized crime group, the Camorra, rent streets to the Nigerians in Genoa to work their trafficked girls as prostitutes. The American Embassy in Madrid Spain, confirms the lack of ‘organization’ of the Nigerian traffickers—but report that the lack of organization is compensated for by increased violence (Richard 1999, 61).

### Numbers of Persons Prosecuted for Trafficking in 2005 or 2006 (UNODC 205-252)



While the data is incomplete and may reflect enforcement patterns in addition to offending pattern, it does tell us that government officials must not discount the roles assumed by females in these operations. Belarus for example issued their list of 5 female sex traffickers ‘at-large somewhere in the world’ and the United Nations red-flagged them as ‘most wanted’. In each case they are Belarus nationals wanted for “organized transnational sex crimes, people smuggling, trafficking and illegal immigration”.<sup>44</sup>

#### 3.2.3.1 Canada, United States, and Mexico

The Canadian section of this UN report revealed a minimum number of convictions, missing statistical data and no information on the involvement of females in this criminal market (UNODC 2009, 132).<sup>45</sup> It mentioned that not all trafficking cases investigated by the police are reported for national statistics. Likewise, neither Mexico nor the United States provided figures regarding women convictions in trafficking offenses.

Information from the United States appears to confirm what little we know about trafficking in our region. Trafficking has been found to be primarily conducted in loosely connected criminal networks. The ‘centre’ of the networks is often a family or an extended family and in some cases

<sup>44</sup> “The Female Sex Slave traffickers of Belarus”, March 22, 2009. <http://www.mostwantedhoes.com/trafficking/sex-trafficking.php>

<sup>45</sup> *Global report on Trafficking in Persons*, UNODC February 2009. p. 132

all members of the family are involved—which serves to bring the women and in some cases older children into the criminal side of the operation. For just one example:

“A family run prostitution network in Canada made more than \$1 million in two years by prostituting foreign women. A man, his son, his wife, their daughter and daughter-in-law all recruited females who participated in the overall operation. Many of the 20 prostitutes -- aged 23 to 39 -- were related to the operators by marriage or blood ...” (Christopolouos 1998).

The point is made that these looser networks and small operations make it more difficult for law enforcement to detect and to prosecute (Richard 1999: 13). The networks are detected only when victims are able to escape to report the operation to the police or via police raids based on intelligence—which is hard to acquire. In 2005, the RCMP estimated that 800 persons were trafficked into Canada per year, while an NGO estimated somewhere around 16,000 would be a more accurate figure.<sup>46</sup> According to the US NY Attorney, law enforcement tends to focus on larger trafficking operations that are classified as more sophisticated or ‘traditional’ organized crime operations rather than ‘mom and pop’ operations. This view is supported by the Los Angeles officials who mentioned that there is more funding when cases involve ‘organized crime’.

### *3.2.3.2 Why Are Women Involved in Human Trafficking*

The criteria for a successful trafficking operation may help to explain why women are significantly represented among the investigations and convictions for this offense. A key to these operations is the first stage—recruitment of the victims. The trafficker must win the trust of the usually young woman or even younger girl. According to Europol it is usual for the recruiters to be of the same ethnicity as the victims so these women would often be ‘known’ neighbours, extended family members, or associates of the victims. Women would be perhaps the best suited to serve as recruiters and convince the person that a better life awaited them without causing them alarm. An additional role as revealed in the literature is at the final stage when the illicit proceeds must be laundered. Money laundering and bookkeeping are tasks that may also fall to women. In some of the smaller operations the women would be active throughout the process

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<sup>46</sup> Trafficking in Women: A Canadian Perspective <http://www.cmaj.ca/cgi/reprint/173/1/25>

while in larger more ‘organized’ operations other criminals—most specifically men—take the lead. This division of responsibility may also help to explain some of the conviction statistics. If women are serving as the recruiters, this may make the more vulnerable to detection. The Europol (2009) document identifies the following roles:

- those who recruit and procure;
- those responsible for smuggling and transport;
- those providing false or counterfeit identity and travel documents;
- those seeking to corrupt law enforcement officers or other civil servants;
- those involved in the provision, management and control of safe houses;
- pimps;
- owners of premises or properties where victims are exploited e.g. bars, nightclubs, brothels factories, hotels, construction sites, farms;
- gang masters;
- those involved in the collection, delivery and distribution of the profits of trafficking;
- those knowingly involved in money laundering and the management of assets and proceeds of crime; and
- complicit legal officers and legal service providers.

So—why are women involved? Likely for the same reasons that men are. The activity is relatively low risk and extremely profitable and women are good at it. There must be other reasons, however, since the participation of women is quite different from region to region. One explanation for the high involvement of women in the Central Asian Republics that is offered is that due to the declining status of women and the re-emergence of traditional cultural beliefs and values, trafficked or exploited women cannot be re-integrated into families and either remain in the destination countries or return to take up a life as a recruiter as part of the crime networks (Turner and Kelly 2009, 8).

Research based on Germany pointed out that some of the women who work in criminal clubs that enslave other women are frequently former prostitutes (Kallinger 2007). Other research describes some of the female recruiters as being part of a ‘second wave’ of formerly trafficked women “who have been offered, or perhaps taken, the option of recruitment rather than continued

sexual exploitation” (Turner and Kelly 2009, 46). The author, however, emphasizes that typically in Germany—possibly unlike in Sicily, Campania Calabria and Puglia, women most usually play only a marginal role—they follow orders of the males who are involved. She quotes Letizia Paoli who stated:

“I have never seen any cases in my studies where I found a woman directing one of these criminal enterprises. Women who find themselves in important roles seem to me anyway to be the sisters, daughters, or wives of someone” (Letizia Paoli in Fiandaca 2003, 220).<sup>47</sup>

The article makes the point that women are a significant presence in money laundering and make up over a third of the laundering convictions in one study between 1993-1997—but even here they conclude that it is the family ties that gives the women this opportunity and puts them at risk of conviction. The over-all conclusion from research conducted at the Max Planck Institute in Freiberg was that in 50 investigations into organized crime in Germany, the role of women was statistically insignificant. In only three cases did the women hold an important role. Women were generally seen to be ‘victims’ under the control of male members.

### *3.2.3.3 Women and the Use of Violence*

The literature reveals that some of the female traffickers are as violent, or even more so, than the male traffickers. Since the majority of female offenders are involved in non-violent crimes, the violence when it does exist is worthy of a larger study. Unrelated to trafficking, research by Diego Gambetta hypothesizes that young males in prisons are more violent than adult male inmates because they need to prove how tough and capable they are. He argues that in England and Wales women in prisons are at least as violent as men and his explanation is that women have less accumulated ‘violence capital’ to display and therefore disputes cannot be settled based on reputation (Gambetta 2009). Hierarchies are therefore settled by violence. This explanation could be tested in terms of the violence displayed by women when engaged in crimes such as trafficking and smuggling offenses. Because they do not have reputations that intimidate and encourage compliance, a show of force, or violence may be the required operational strategy.

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<sup>47</sup> Letizia Paoli. *Scientific Report--Pilot Project to Describe and Analyse Local Drug Markets*, European Monitoring Centre for Drugs and Drug Addictions. Quoted in Giovanni Fiandaca p. 220.

### 3.2.4 Smuggling

Smuggling is a complex offense because the commodity being smuggled makes a difference to the criminal operation. Under the umbrella of this offense we see women expressing their liberation and their ability to command respect—and in other circumstances we see the most exploited of the criminal population—the drug mule offender. As with much of the topic of women in organized crime, the bulk of the information is anecdotal or based on media coverage with a very small amount of research.

One study by Howard Campbell (2008) captures the range of female participants:

Economic and cultural factors strongly shape women's involvement in drug smuggling and the effects of smuggling on their lives, but these/actors and effects vary significantly, depending on women's social class position and place within drug organizations. High-level female drug smugglers may be attracted to the power and mystique of drug trafficking and may achieve a relative independence from male dominance. Middle-level women in smuggling organizations obtain less freedom vis-a-vis men but may manipulate gender stereotypes to their advantage in the smuggling world. Low-level mules also perform (or subvert) traditional gender roles as a smuggling strategy, but receive less economic benefit and less power, though in some cases some independence from male domestic control. A fourth category of women do not smuggle drugs but are [sic] negatively impacted by the male smugglers with whom they are associated.

His research indicates that while a few women do gain a degree of independence and a sense of female empowerment these few women adopt 'stylized capo roles or macho postures' and in the end the larger patriarchal cultural economy is reinforced. In March 2010, the DEA and FBI announced that 31 female drug smugglers were among the fugitives sought along the border states with Mexico. A female 'alleged kingpin' (Enedina Arrellano Felix) is suspected of taking over the Tijuana cartel. According to a retired DEA officer, high-profile women traffickers, Colombian and Mexican have received little press but are just as ruthless as the men (Washington, 2010).<sup>48</sup> One woman called the "Godmother of Cocaine" was deemed to have been responsible for 200 killings in Florida during the 1970's and 80's. Even earlier, another woman

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<sup>48</sup> Diana Washington. March 9, 2010. "31 Women on List of Drug Smugglers sought by DEA and FBI", *Las Cruces Sun news. Com*, Valdez/El Paso Times

is claimed to have gained her position of being an undisputed drug lord by ordering the deaths of 11 Chinese immigrants who sought control of her heroin trade.

Over the same border people are smuggled and again, women play a role—and depending on what numbers one might find, it can be seen as a significant role. A series of newspapers articles refer to the “Women are the new Coyotes”. The argument is made that the women inspire confidence in the immigrants and if the authorities stop them, they are given lighter sentences because they are mothers, daughters. Women can be successful in organized crime because they can use concepts of femininity to appear innocent when committing crimes, particularly in regards to drug trafficking. However, the description of liberated women making large profits is dampened somewhat by the fact that they must meet a monthly quota in order to pay off the major drug smuggling cartels (ranging from \$5,000-\$15,000) in addition to bribing border officials. Based on interviews, one woman explained:

We all got into the business out of necessity. Some of us are single women and others have husbands in jail. ... Who wouldn't do the same thing if the miserable pay you get in a factory couldn't be stretched far enough to feed the kids and you finds you can get twice the money for just giving a drink or taking care of a goddamn 'chicken' (undocumented migrant). (Laura Agustin 2009)

Sheldon Zhang (2008) describes in great detail the ‘smuggling’ rather than ‘trafficking’ of immigrants and the author clarifies any confusion between these terms by using the United Nations distinction that refers to smuggling when the movement involves the willing participation of the illegal migrant rather than the involuntary participation as implied by the term “human trafficking. While other researchers have interviewed those who have been smuggled, this research involves interviews with the actual smugglers themselves. Zhang includes a chapter on the role of female smugglers in these transnational operations. He found female ‘snakeheads’ involved in almost every aspect of this business. The ability to fill certain roles, with some requiring both skill and contacts, determined where a person ‘fit’ within the operation—seemingly gender blind. Males were seen taking orders from women and the reverse was also true, depending on the specific role that each undertook.

Some participants serve by recruiting clients, recruiting US passport and green-card holders for use their documents, and the recruitment of eligible bachelors for fraudulent marriages. Others worked on preparing documents required for either business delegations or for the fraudulent marriages—or students and trainee visas. Others arranged the photo–substitutions. In small operations, the snakehead handled everything for select clients. Good relations appear to be at the root of the success of these operations. While traditional approaches taken by the police to organized crime preferred to see rigid family or ethnic based hierarchical structures, the picture that emerges of these Chinese snakehead operations in this study is of networks, loyalty, good service, and fluidity. The ‘structure’, to the extent that there was one, was ‘amorphous’ rather than the ‘godfather’ type of hierarchy. The female snakeheads in his study had higher education, more likely than the men to be single or divorced, and like the men, held regular, salaried jobs in addition to smuggling. Family ties provided the most common route into the smuggling underworld but some entered the business on their own or through other snakeheads. Money was the prime motivation but for some there was also the sense of helping friends or relatives enter the United States—women more than men identified this as being an important reason for being involved in smuggling (p. 194). In comparing the males to the females, one interviewer in Zhang’s study stated: “Women tend to be more reliable and better trusted by clients. The main reason is that female snakeheads are local people and tend to be stable. ...I have never heard of any female snakehead being accused of having defrauded their clients” (p.205). In a review of Zhang’s book Dina Siegel (2009) comments that we still have a lot to learn about the role of women in criminal enterprises. He refers to the growing ‘female power’ not only in smuggling and trafficking of persons but of course also in drugs.

### **3.2.5 Drug Mules**

These are the low level of smugglers that Campbell mentioned in the previous section. These are the women who most often become involved in organized crime out of desperate economic need or due to physical or emotional force. Typically they have no prior record of offending and yet they assume this front-line role in an importation scheme. Some women are willing to participate in drug trafficking to support a drug habit but more are involved because they need money to support themselves financially (Drug Policy Alliance Network, 2010; McClelland, 2003; Lawrence & Williams, 2006). Lawrence and Williams (2006) further this description of female

drug traffickers in Canada, suggesting that it is often non-white women who work as couriers. The combination of mandatory minimum sentencing and racism has produced a dramatic increase in non-white women receiving harsh sentences on drug charges (Lawrence and Williams, 2006). They argue that the sentences are made most severe because the black drug couriers are often viewed as bringing drugs into ‘our’ country, even if they are Canadian born.

The Drug Policy Alliance Network (2010) and the Department of Justice Canada (2008) agree that female drug couriers are increasingly at risk for incarceration due to disproportionately stiff drug sentences. Drug trafficking is a ‘heavy term’ that may disguise the low level of participation of the drug mules and the marginal profits that they make. The research suggests that most women who are convicted of either importing drugs into or transporting within a nation rarely own the drugs they ingest or carry. They are paid a flat fee and most often do not share in the potential profits (Boyd 2006).

In some cases these women are forced into carrying drugs by males working in higher levels of organized crime who threaten to harm to their family members. An Open Letter written to the Prime Minister from front-line organizations who work with addictions and prison populations argues that the introduction of Bill C-2 in 2008 has sent drug incarceration rates skyrocketing by mandating mandatory minimum sentences. They also argue that while mandatory minimum sentences for drug offenses were designed to deter crime, they are not an effective (or cost effective) way to deal with social issues such as drug use and addiction. The Drug Policy Alliance Network (2010) agrees with this, stating that often when women with drug addictions are imprisoned, their addictions are neither treated nor cared for by the state. As Dianne Martin (1993, 305) wrote: “The war on drugs is also a powerful gendering device. At the same time as it wages war on poor people, ... it uses women as both exemplar of and justification for its harsh and draconian measures.”

As we saw with every form of non-organized crime, poverty plays a major role in the involvement of women in certain types of crimes. They are often more visible—possibly being on the street or else carefully monitored by police and social agencies that seek to regulate them. When one is considering voluntary life-styles, it is hard to imagine that ingesting deadly amounts

of drugs would be a chosen career. Not only do the women not own the drugs, but they are also often unaware of the weight and quality that they are carrying—all which are essential factors in determining the sentences that are given upon conviction. Perhaps because of the weight and less bulky size, the drugs that are often carried are Class A, such as cocaine and heroin. Most defense lawyers seeking mitigation on behalf of a courier emphasize the following points:

- the courier has no decision-making power in the criminal organization that is responsible;
- for the scheme;
- the courier shoulders all of the risk;
- the courier normally has no previous record;
- the courier given their personality characteristics are genuinely remorseful;
- the courier is often pressured and motivated by factors other than greed;
- and as stated above, the courier is ignorant as to the nature, quality, or value of the drug imported; and
- the courier may be a foreign nationals—now separated from family for a considerable period awaiting trial.<sup>49</sup>

Susan Boyd's (2006) article outlines the research that links the desperate lives of these women to the criminal justice system that is intent on being seen to be handling an out-of-control drug importation and demand issue. As Susan Boyd (2006) states:

The focus on drug couriers serves to deflect attention from the tons of drugs imported into Canada, the United States, and Britain via airplanes, ships, and trucks. These vessels hold significantly larger quantities of illegal drugs than those found on and in bodies. It also serves to deflect attention from the impacts of Western drug consumption and economic, military, and political initiatives on both Western and Third World nations and the people who live in them, especially poor women and women of colour.

Given the status of the women who are being caught as drug couriers, what follows is an analysis of a couple of Canadian cases that have come to court in order to see the decisions that the judges are making about these female criminals and the criteria upon which the decisions are based.

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<sup>49</sup> Unpublished paper prepared by Steve Coroza, defense lawyer now a judge.

*R. v. Hamilton* - Marsha Hamilton and Donna Mason risked their lives and their liberty by travelling to Canada after swallowing pellets of cocaine in Jamaica. Both were arrested. Ms. Hamilton nearly died from cocaine leaking into her bloodstream. The offenders, black women and single mothers of three children, pleaded guilty to unlawfully importing cocaine. What remains for the Court is the imposition of a just sanction.

This case is used as a test case for further courier cases (*R. v. Hamilton* 2003; *R. v. Hamilton and Mason* 2003).<sup>50</sup> The defence in each of these cases highlights the role of the judiciary, and specifically the sentencing judge, in addressing systemic injustices against the offending persons — injustices recognized in *R. v. Gladue* (1999). The defence argued that Black women should be granted similar consideration when the evidence presented at the trial suggests a history similar to that of Aboriginal women — of poverty, discrimination, and overrepresentation of Black women in the criminal justice system (*R. v. Hamilton* 2003). This defense position was of course in contrast to the prosecution that attempted to build a case against the women that stressed the grave dangers of narco-terrorism, organized crime and the protection of youth as being conditions that required lengthy jail sentences. They mentioned the lucrative drug profits that were available in Jamaica and painted a picture of the women as all part of a powerful and wealthy drug syndicate.

Justice Hill's decision was significant for its recognition of systemic factors and imposed conditional sentences. In *R v. Hamilton and Mason*, Justice Hill stated: “these individuals, highly dispensable throwaways of elusive overseers live in despair of poverty, single mothers and subject to systemic racism. The reward for the risk taken pays rent, feeds children and supports subsistence level existence”. Even though the decision was successfully appealed and overturned in 2004 by the Court of Appeal for Ontario, groups working with the marginalized couriers felt some recognition had been granted to the systemic inequalities in society—gendered, racialized, and class-biased drug policies (Boyd 2006, 148).

As Boyd (2006) concludes:

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<sup>50</sup> *R.v. Hamilton*, [2003] O.J. No.532. or *R. v. Hamilton and Mason* (2003) 172 C.C.C. (3d), 114 (Ont S.C.J.)

In analyzing the two cases, Justice Hill did not confine himself to the arguments advanced by the Crown and the defence. Rather, the judge drew from his own observations in the courtroom, as well as the findings of the Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (Ontario 1995) to explain how systemic social and economic circumstances shaped the lives of Hamilton and Mason and other Black women moving through the criminal justice system. The judge's ruling and the defence lawyer's arguments suggest that some criminal justice professionals in Canada understand that women's lived experience and their conflicts with the law are shaped and defined by race, gender, and class. The *Hamilton* and *Mason* cases exemplify the "typical" situations of women involved in importing. Poverty, discrimination, and race and gender inequality shape women's lives.

In a second case the defense tried to make the same type of argument as was used in *R. v.*

*Hamilton and Mason*:

*R. V. Bowen* - Natasha Bowen pled guilty on February 28, 2003 to the charge of Importing Cocaine. She arrived at the Lester Pearson International Airport on August 19, 2001 on an Air Canada flight from Jamaica. Upon her arrival in Toronto, the Customs authorities referred her for a secondary examination. During the subsequent search of her two suitcases, each was found to contain a long tube. Within each tube was found powdered cocaine. The total amount of cocaine retrieved from Ms. Bowen's suitcases was 1.2288 kilograms, valued at \$184,320. The cocaine was estimated to have a purity content of 74%. She was released on a recognizance on August 20, 2001, which included a number of stringent conditions including house arrest.

The claim was made that as a member of a disadvantaged group, Ms. Bowen should receive a sentence which is more lenient than that she would otherwise receive. He further argued that Ms. Bowen's past has been adversely impacted by the deleterious effects of racial discrimination and that consequently, the disposition should reflect that fact. The Judges decision appears to have been determined by just how disadvantaged her life had been. He stated:

In my opinion, Ms. Bowen's life situation was not as precarious as the defendants in *R. v. Hamilton and Mason*. ... Her field of options were not circumscribed by limitations imposed by single motherhood, unemployment, or by the virtual lack of an education. ... The imperatives of general deterrence, in this case, mandate the imposition of a term of imprisonment. ... In the circumstances of this case, I think that the appropriate sentence, after weighing the gravity of the offence and the mitigating circumstances, is one of 26 months imprisonment. (*R. v. Bowen*, 2003)<sup>51</sup>

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<sup>51</sup> *R. v. Bowen*, [2003] O.J. No. 3812.

While the courts are beginning to recognize the circumstances behind the involvement of women as ‘drug mules’, it appears to be open to the discretion of the judge and the ability of the defense lawyer to make a strong claim.

## 4.0 Findings

The findings from the literature review emphasize several key points in relation to females in conflict with the law—both in terms of women who are involved in general criminal offenses, as well as crimes related to criminal organizations.

- The majority of crimes that women commit in general, are minor crimes, such as common theft, common assault, bail violations, and fraud.
- The majority of organized crimes that women commit in Canada fall under the ‘participation’ offence—the lowest ‘tier’ of charges under the criminal organization legislation.
- There is some indication that women occupy positions of trust in criminal organizations, and are much more involved in decision-making than previously believed.
- Internationally, there is evidence of women taking ‘leadership roles’ in diverse criminal organizations. As with all types of crime, women’s involvement with organized crime is statistically low, but all indications are that it has risen slightly, with some women participating at higher levels or holding leadership positions.
- Some women are involved in violent and exploitive crimes, perhaps most specifically trafficking in persons.
- Internationally the roles that women are assuming in organized crime appear to relate to factors such as culture, economics and possibly even religion.
- Global crimes, by women or by men, require global enforcement and greater harmonization of laws, and policies—and greater uniformity in the collection and sharing of statistics.

## 4.1 Areas for Future Research

While many studies have focused on identifying organized crime groups, and in assessing the impact of such groups, the vast majority of the research in this area has concentrated almost exclusively on male participation. There has been little attention paid to the involvement of women in criminal organizations, except for some pioneering research being conducted on the mafia in Italy, and other countries in Eastern Europe. Previously to this, the vast majority of the research that had been conducted in this area had focussed solely on women as victims of organized crime, or as occupying a passive role in directing the activities of criminal organizations. Only very recently have there have been researchers who have looked at studying the leadership roles that women have adopted within the organized crime hierarchy. The need for further research has been identified in the following areas:

- There is established information that points to a portrait of the general male offender who engages in organized crime, however, such details are not readily available for women. Future research on the general demographics for women who engage in organized crime in Canada would be a valuable addition to the knowledge base in this area.
- Anecdotal evidence suggests that women undertake leadership roles in organized crimes, and often in the realm of trafficking in persons. Researchers know very little about this population of female offenders, and further work in this area could attempt to explain why some women engage in this type of crime, versus other types of organized crimes. An examination of the routes used for human trafficking, as well as women's involvement in the leading and facilitation of trafficking in these areas would be very relevant to the field of research. Additional research could also attempt to explain the disparities of female involvement between countries.
- Identifying the cultural, religious, and economic realities of specific countries, and the influence on female criminality in these areas, would also be worthy of further analysis.
- More information is needed regarding the role of females in street gangs. An examination of the motivation and involvement of women in gangs would add great value to the body of gang literature. Current research seems to support the argument that the best way to reduce gang violence, and to reduce the recruitment of gang members into more serious organized crime organizations is via providing support into those communities to

enhance education, employment and social services within the higher risk communities. Given the government's current interest on the issue of gangs, it would be advantageous to continue work in this area.

- Researchers are beginning to attempt to determine which types of criminal organizations females are most likely to play significant roles. This research identified women as being involved in 'open' entrepreneurial networks, rather than monopolistic types, and that women may rely more on skills and contacts rather than violence. Women also provide positions of trust in many criminal organizations. More research is required on the type of criminal network that are most conducive to women's involvement in organized crime.
- Research on women and organized crime is still a relatively unexplored subject. The lack of substantiated knowledge in this area makes it an important area worthy of further study.

## **5.0 Conclusion**

It is clear through this discussion of the research that there is a lack of data in the area of women who commit organized crimes, both in Canada, and abroad. In order to gain a better understanding of the nature and scope of women's offending in this area, more research and analysis must be completed on this issue. The research that has been conducted has demonstrated that women currently pose a small threat with regards to their involvement in organized crime, but that that number is increasing. Due to the fluid and dynamic nature of organized crime, the involvement of women in organized crime activities should be monitored on a national and international scale, to ensure that trends in offending are accurately addressed by the legislation, policies and enforcement tactics that we employ to combat them.

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