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Similar sentences, similar crimes? Using deep sample analysis to examine the comparability of homicides and punishments by victim-offender relationship



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ABSTRACT

Perspectives in sociology of law and criminology provide theoretical justification for expecting victim-offender relationship to affect sentencing. Screening devices used by court actors may consider factors not directly related to the crime, but grounded in dominant stereotypes about the crime and those involved. Using data from an urban jurisdiction in Canada, this study compares cases that differed by relationship to determine whether similar homicides were treated similarly at sentencing and whether stereotypes about intimate partner homicide could explain any punishment disparity. The deep sample analysis showed that disparities in sentencing appeared to be most common for cases in which an offender who killed intimate partners received shorter sentences than other offenders, despite the intimate partner homicide appearing more serious in nature. Results also challenge dominant stereotypes about intimate partner homicide that may affect punishment outcomes. Controls for offense severity in traditional, quantitative sentencing research may not effectively capture variations in homicide.

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1. Introduction

Traditional and current perspectives in sociology of law and criminology provide strong theoretical justification for expecting the relationship between an offender and a victim to affect criminal justice outcomes. These perspectives draw attention to the use of screening devices by court actors that consider many factors not directly related to the crime itself (Auerhahn, 2007; Becker, 1963; Erikson, 1964; Kitsuse and Cicourel, 1963; Sudnow, 1965; Rubington and Weinberg, 1978; Schur, 1971; Swigert and Farrell, 1977; Emerson, 1983; Black, 1976; Horwitz, 1990). These factors may lead to assumptions about the nature of offences and those involved based on associated stereotypes. Such assumptions can, in turn, shape public attitudes and behaviors toward particular offenders and help identify those defined as more criminal than others and to what degree (Farrell and Swigert, 1986). As such, some offenders may be subject to lighter sanctions because they or their crimes do not adhere to stereotypes of criminal behavior that warrant severe legal reactions.

The victim-offender relationship generates assumptions about offenders and victims, particularly in cases of violence, that may elicit one or more ‘crime scripts’ resulting in lighter sanctions for some offenders more than others. For example, those who perpetrate violence against intimate partners compared to offenders who do not share an intimate relationship with

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their victims, may be punished differently even though their crimes are similar (Miethe, 1987; Dawson, 2006). Although limited and somewhat dated, prior research shows that the association between victim-offender relationship and criminal justice outcomes is not clear with intimacy playing a role at some, but not all, stages of the criminal justice process (Adams, 1983; Dawson, 2004a; Erez and Tontodonato, 1990; Horney and Spohn, 1996; Miethe, 1987; Simon, 1996a; Spohn and Spears, 1997; Williams, 1976) or not at all (e.g. Albonetti, 1991; Simon, 1996b; Myers, 1979a, 1979b).

The assumption underlying many of these quantitative studies is that a 'measure of similarity' can largely be achieved by controlling for a variety of factors that distinguish intimate and non-intimate partner violence and that may also affect punishment outcomes. Few studies, however, have examined in further detail how 'similar' were these crimes beyond such controls which may not capture all or even most of the relevant factors. Using Daly's (1994) qualitative deep sample approach, this study examines cases that differed by victim-offender relationship but were matched according to key criteria using data from a wide sample dataset (Dawson, 2004a,b). Matched cases were then used to determine whether 'similar' cases of homicide were treated similarly at sentencing by collecting data on other factors that may be equally relevant at sentencing, but were absent in the larger sample. The collection of new data for specific cases focused on particular variables that are argued to capture the role of common stereotypes or 'crime scripts' associated with intimate partner violence as discussed next.

1.1. Stereotypes about intimacy and violence

Dominant stereotypes about intimacy¹ and violence are shown in Table 1 (for review, see Dawson, 2006). These can be organized around three focal concerns believed to be emphasized by judges when responding to crime: (1) offender culpability; (2) public protection; and (3) the practical constraints of the courts (Steffensmeier et al., 1993, 1998). Each stereotype is linked to explanations for criminal justice leniency in cases of intimate partner violence and, while one stereotype may be applicable to more than one concern, each is couched within a single category for ease of discussion. The first focal concern emphasizes that the severity of punishment should increase according to the degree of offender culpability. Research generally shows that offense seriousness, measured in terms of culpability and harm, is the most significant factor in sentencing (e.g. Gottfredson and Gottfredson, 1988; Huang et al., 1996). As shown in Table 1, two stereotypes about intimate partner violence may be linked to perceptions of culpability, leading to lighter sanctions for these offenders compared to other offenders. The first stereotype focuses on perceived loss of control by an offender (or 'heat of passion'; Stereotype 1) which portrays an offender as acting with moralized rage, decreasing the degree of offender culpability (Rapaport, 1994). The second stereotype concentrates on the role the victim may have played in providing the impetus for the violence (Stereotype 2). For victim participation/provocation to mitigate offender culpability, the participation must be sufficient enough for a reasonable other to lose self-control if placed in a similar situation (Rapaport, 1994).

A second focal concern for judges is public protection and this typically focuses on the need to incapacitate the offender or to deter would-be offenders and involves predicting future danger and/or calculating risk of recidivism (Steffensmeier et al., 1998; Identifier #1 removed). Four stereotypes associated with intimate partner violence may contribute to perceptions about dangerousness and recidivism. These stereotypes relate to the perceived unpredictability of intimate partner violence (Stereotype 3), the lack of future danger posed to the public (Stereotype 4), their tendency to target victims from similar social locations (Stereotype 5), and the perpetration of violence in private rather than public (Stereotype 6). When endorsed, all of these stereotypes may lead to the lenient treatment of intimate partner offenders throughout the criminal justice process (Dawson, 2006). It may be argued that stereotypes that mitigate sentencing (e.g. loss of control) have the opposite effect when judges perceive a correlation between loss of control and increased recidivism. However, sentencing is also determined by judicial perceptions of permanence; losing control is typically not a permanent attribute and is susceptible to reform, thus, justifying a lenient sentence (Steffensmeier, 1980).

The final focal concern relates to the practical constraints of the criminal justice system, emphasizing organizational and individual factors. Organizational concerns include ensuring stable flow of cases, maintaining court relationships, judicial accountability, and being sensitive to resources/costs of incarceration (Dixon, 1995; Steffensmeier et al., 1993; Ulmer and Kramer, 1996; Eisenstein et al., 1988). However, the role of such concerns is more difficult to examine with individual-level data and, as such, the first two sets of stereotypes are the focus of this study.

The next section describes how the deep sample was constructed and how it compares to and is representative of the larger sample. This is followed by a description of new data collected to capture various factors identified in the above stereotypes that were not available in the wide sample, but arguably hold the potential to increase the comparability of cases and to understand if more 'similar' cases were treated similarly at sentencing.

¹ The terms 'intimacy' and 'victim-offender relationship' are used interchangeably in this paper. It is acknowledged that intimacy may be perceived as an affective trait while victim-offender relationship may be more structural in nature. The terms are used here to refer to the degree of 'closeness' perceived to exist between victims and offenders. Drawing from work by Black (1976, 1993) and others (Decker, 1993; Horwitz, 1990; Silverman and Kennedy, 1987, 1993), intimate partner relationships are considered to be 'closer' than other types of relationships.

Table 1

Stereotypes associated with intimacy and violence and related hypotheses about their effect on criminal justice decision-making.

Focal Concern	
Offender Culpability	Stereotype #1 – Mitigating Emotions. <i>Hypothesis:</i> Intimate violence is treated more leniently because such acts are perceived to be motivated by strong emotions that criminal justice actors believe reduce the defendant's culpability. Stereotype #2 – Victim Participation. <i>Hypothesis:</i> Intimate violence may be treated more leniently because such acts are assumed to involve some degree of victim involvement which is perceived by criminal justice officials to mitigate the defendant's culpability for his/her crime.
Protection of the Public	Stereotype #3 – Deterring Future Crime. <i>Hypothesis:</i> Intimate violence may be treated more leniently because such defendants are believed to be beyond the deterrent message of criminal law. Stereotype #4 – Future Dangerousness. <i>Hypothesis:</i> Intimate violence may be treated more leniently because criminal justice officials believe such offenders to pose little future dangerousness to the public at large. Stereotype #5 – Horizontal Crimes. <i>Hypothesis:</i> Intimate violence may be treated more leniently because victims and defendants in these cases often share similar social ranks and, thus, are not perceived to pose a threat to the maintenance of the social order. Stereotype #6 – Private Crimes. <i>Hypothesis:</i> Intimate violence may be treated more leniently because these crimes are assumed to be more private acts and, thus, are perceived to pose little threat to maintenance of the social order.
Practicality	Stereotype #7 – Preserving the Family Unit. <i>Hypothesis:</i> Intimate violence is treated more leniently because criminal justice officials believe they are preventing further disruption of intimate or familial relationships. Stereotype #8 – Frequent Crimes. <i>Hypothesis:</i> Intimate violence may be treated more leniently because these cases are encountered more frequently by the courts, leading to their classification as 'normal' incidents that are 'less serious,' allowing for more expedient processing of these cases. Stereotype #9 – Informal Controls. <i>Hypothesis:</i> Intimate violence may be treated more leniently because criminal justice officials perceive informal controls to be more available in such disputes and because there is an inverse relationship between informal and formal controls, the latter should be less visible. Stereotype #10 – Legacy of Patriarchal Norms. <i>Hypothesis:</i> Intimate violence may be treated more leniently because of the legacy of patriarchal legal doctrines that reflect the belief that intimate violence is inappropriate for legal intervention.

2. Methods

2.1. Selecting the deep sample of cases

The deep sample was derived from the total number of homicides dealt with by the courts from 1974 to 1996 in Toronto, Canada (N = 1137; see Dawson, 2004a,b). The sample includes only cases that lead to a conviction and sentence and involved single offenders and single victims to increase comparability of cases.² Intimate partner homicides include current and former legal spouses, common-law partners and dating relationships. Non-intimate partner homicides include cases that involved family members (not including spouses), friends, acquaintances and strangers.³ By definition, intimate partner relationships imply primarily adult relationships, therefore, the deep sample was selected from cases that involved victims 17 years and older and offenders 16 years and older, coinciding with the youngest intimate partner homicide. Thus, the wide sample from which the deep sample was derived comprised 482 cases: 154 intimate partner homicides and 328 non-intimate partner homicides.

Several considerations were involved in selecting the deep sample so matched cases varied only by the victim-offender relationship to the extent possible. First, the wide sample was grouped by charge at arraignment and conviction. Because fewer cases involved intimate partners, the maximum number of potential pairs was equivalent to the number of intimate partner homicides for each charge-conviction combination. Table 2 shows frequency and percentage distributions for each combination by type of victim-offender relationship.

Within each charge-conviction category, cases were then grouped according to the following criteria: (1) gender of offender (2) gender of victim (3) mode of conviction (i.e. trial versus plea) and (4) time period in which the case was disposed. Research has shown that offender and/or victim gender is theoretically and empirically linked to sentencing (Curry et al., 2006; Daly, 1989; Franklin and Fearn, 2008; Nagel and Hagan, 1983; Nooruddin, 2007). Mode of conviction captures whether a case was resolved at trial or through a plea and is considered to be a legally-relevant factor at sentencing. Finally, cases were grouped by time period (1974–1984 and 1985–1996) given that social, legal, and policy transformations targeting intimate partner violence may have affected Canadian sentencing practices over time (Dawson, 2004a). Once cases were grouped together based on these criteria, cases within each group were matched according to offender prior record (e.g. no prior record, prior non-violent record, or a violent record) and age which was a continuous variable.⁴ This matching process

² Due to the sample being limited to cases that involve a conviction and sentence, results may be biased due to selection factors at prior stages of the criminal justice process. Correction for this was not possible with the small sample size, but it is recognized as a limitation.

³ It is expected that intimate partner homicides will be sentenced differently than other types of homicide because they differ from other types of domestic homicide (i.e. family homicide) in terms of dynamics, motives, and risk factors. The former is often motivated by sexual jealousy and/or male proprietariness, whereas the latter is motivated by a range of factors from economic disadvantage to mental illness (see Diem and Pizarro, 2010). As such, it is anticipated that the corresponding stereotypes will also differ by type of homicide.

⁴ Cases were not matched on offender race/ethnicity due to missing data and validity issues when information was available. Race could have been determined by the researcher based on physical appearances in photos or through offender's self-identification to police. However, these approaches are inconsistent and unreliable and can lead to classification errors.

Table 2

Frequencies and percentages (in parentheses) for potential deep-sample matches by charge/conviction combination for intimate partners (IP) and other relationship types (OR) for Toronto, Ontario, 1974–1996.

Charge-Conviction Combinations ^a	IP	OR	Total
First-degree murder/first-degree murder	9 (6)	22 (7)	31 (6)
First-degree murder/second-degree murder	22 (14)	47 (14)	69 (14)
First-degree murder/manslaughter conviction	20 (13)	30 (9)	50 (10)
First-degree murder/other conviction ^b	2 (1)	1 (1)	3 (1)
Second-degree murder/second-degree murder	23 (15)	42 (13)	65 (13)
Second-degree murder/manslaughter conviction	65 (42)	149 (45)	214 (44)
Second-degree murder/other conviction	5 (3)	4 (1)	9 (2)
Manslaughter charge/manslaughter conviction	6 (4)	21 (6)	27 (6)
Manslaughter charge/other conviction	2 (1)	11 (3)	13 (3)
Total	154	328	482

^a Possible matches have identical charges at arraignment and conviction outcomes.

^b Other convictions include a small number of miscellaneous outcomes such as criminal negligence, aggravated assault and/or indignity to a human body.

resulted in a deep sample of 108 cases or 54 matched pairs, including 30 exact matches and 24 near matches. Near matches are pairs of cases that differed on one or two of the following factors: age, offender prior record and/or time period.⁵

2.2. Constructing crime narratives

Focusing on variables identified in legal and socio-legal literature, more detailed information was collected for the smaller number of cases in the deep sample and crime narratives constructed. It is acknowledged that the crime narratives are the researcher's reconstruction of the offense following the collection of additional information from official and unofficial sources. Further, these reconstructions are based on previous 'official' reconstructions of the homicide by police, coroners, and prosecutors, involving their subjective assessments removed in time and space from the actual killing. As a consequence, these descriptions will be shaped by the interests and perspectives of these observers. Keeping this limitation in mind, the narratives allowed for the examination of many variables not available in the wide sample. For example, the spontaneity of violence (stereotype 1) or the role played by the victim (e.g. provocation; stereotype 2) may be factors criminal justice actors use to distinguish intimate partner homicides from other homicides. These factors may also represent common stereotypes about intimate partner homicide that have yet to be supported empirically. As such, it is important to determine the validity of these stereotypes, given that their *perceived*, rather than *actual*, presence may lead to different punishments.

New variables include: (1) premeditation/intent; (2) victim participation; (3) excessive alcohol/drug abuse at time of homicide and/or offender history of substance abuse.⁶ With respect to the first variable, one explanation for the association between intimacy and law draws from the theory of relative culpability inherent in the law of homicide, relying on the distinction between hot- and cold-blooded violence. Killing out of anger or some strong emotion mitigates an offender's culpability because it undermines their rational capacity for planning/deliberation (Rapaport, 1994). Hot-blooded acts are more often seen as synonymous with intimate partner violence (Rojek and Williams, 1993). Carefully planned and orchestrated homicides are more often associated with stranger violence (Riedel, 1987). The validity of these stereotypes, however, has seldom been examined. Evidence that an intimate partner homicide was premeditated or planned in some way would contradict Stereotype 1. In this study, a broader definition of premeditation was incorporated than discussed in legal literature because some measures also encompass 'intent' (Dawson, 2005, 2006; Wallace, 1986). The measures are: (1) offender purchased a weapon prior; (2) offender brought a weapon to the scene; (3) victim was sleeping when killed; (4) offender previously threatened to kill the victim in front of witnesses; (5) offender contracted out the killing; (6) victim lured to a particular location; (7) offender followed/laid in wait for an opportunity to kill the victim; (8) offender made a previous attempt(s) to kill the victim; and, finally, (9) there was documented evidence that the offender intended to kill the victim (e.g. change to a will). The presence and type of evidence supporting the existence of premeditation/intent was collected from the additional data and the crime narratives.

The second variable can be linked to Stereotype 2 through the legally-recognized partial defense of provocation available in some jurisdictions, including Canada. If argued successfully, this defense can reduce charges from murder to manslaughter or, if not successful, may act as a mitigating factor at sentencing. Victim provocation, or more broadly conceptualized in this study as 'victim participation,' is more likely to be perceived in cases involving intimate partners because of the proximity and intensity of relationships (Rapaport, 1991; Silverman and Kennedy, 1993). Evidence of victim participation was coded present

⁵ It may be argued that 'near matches' are not similar if they differ on two of the three factors, however, given the work is exploratory, all cases were matched on key criteria and near matches differed on the secondary criteria. Therefore, for the purpose of preliminary assessment, these cases were also included in the deep sample. Differences between the pairs of cases are discussed in the pair-wise comparison.

⁶ Information for the total sample was collected from police investigation and Coroner files. These data were supplemented by data collected from Crown Attorney files, National Parole Board documents, sentencing remarks and, finally, all newspaper articles related to a particular case and the trial of the alleged offender accessed through a CD-ROM electronic media database.

if the victim was the first to resort to violence, adhering to [Wolfgang's \(1958\)](#) more narrow definition of victim precipitation or, more broadly, if there was evidence of mutual aggression or some precipitating act by the victim.⁷

Finally, intoxication has been shown to both decrease and increase culpability and thereby act an aggravating or mitigating factor ([Ashworth, 1992](#); [Grant et al., 1998](#)). Substance use by the victim may also be associated with sentences, but again it may work for or against the victim ([Williams, 1976](#)). It could be argued that alcohol/drug abuse by the offender helped contribute to his/her loss of control (Stereotype 1) or, alternatively, that alcohol/drug abuse by the victim increased their own responsibility (Stereotype 2). Cases were coded as having evidence of substance abuse if it was noted for the offender, the victim, both offender and victim and, finally, if there was evidence of a history of substance abuse by the offender.

The presence of these three variables – premeditation/intent, victim participation, and intoxication – may also support further stereotypes that intimate partner homicide perpetrators are beyond the deterrent message of the law (Stereotype 3) and/or do not pose future danger to the public (Stereotype 4) by contributing to perceptions that these offenders merely lost control, the victims contributed to their own demise or, finally, if not for substance abuse, the homicides would never have occurred.

2.3. Analytic strategy

Bivariate analysis using variables in the larger dataset was used to compare the deep sample group profiles of the two types of homicides. Following the coding of new variables and the construction of the crime narratives, more detailed comparisons for the two groups were then made, focusing on the new variables, with the primary goal being to identify key differences. Following this, three types of comparisons were made: (1) If both cases in a matched pair received similar sentences, the objective was to determine how similar were the crimes; (2) Among offenders who killed intimate partners and received shorter sentences than non-intimate partner killers, the goal was to identify factors that distinguished the cases that could explain the different sentences; and, finally, (3) Among offenders who killed intimate partners and received longer sentences than the comparison group, the objective was to determine what, if any, elements of the crime led to their punishments.⁸

3. Results

[Table 3](#) provides a preliminary bivariate comparison of the deep sample cases by type of victim-defendant relationship using variables from the wide sample ([Dawson, 2004a](#)). As expected, with regard to the selection criteria variables, chi square tests showed that there was little variation because cases were matched according to these characteristics. However, there was a significant difference in offender age (intimate partners, 35; non-intimate partners, 30). This finding is consistent with prior literature that has found that crimes involving intimate partners generally have older victims and offenders than other types of crimes ([Silverman and Kennedy, 1993](#); [Daly and Wilson, 1988](#)). By virtue of its definition, fewer offenders and victims in the intimate partner group were single/not married (33% for both) compared to the non-intimate partner group (74% and 65% respectively). Fewer offenders were unemployed in the intimate partner group (41% compared to 70% in the 'other homicide' category) and fewer had less than 10 years of education (49% and 76% respectively). A higher proportion of intimate partner homicide victims were non-white (44% compared to 19%). Finally, offenders who killed intimate partners were more likely to have previously threatened the victim (32% compared to 6%) and were more likely to have prior police contact (25% and 6% respectively) compared to the non-intimate group.

Overall, despite these differences, there was little variation across the two groups in the average sentence – a difference of one year – which supports the potential utility of the selection criteria used to match cases. On the surface, then, it appears that cases were similar and treated similarly at sentencing, although higher rates of prior threats and police contact among the intimate partner homicide group might have led one to expect higher average sentences for these cases. However, many legally-relevant factors were not available for analysis in the wide sample and, therefore, it may be that the new variables can contribute further to our understanding of sentence outcomes in these cases.

3.1. Looking deeper into the deep sample

[Table 4](#) shows frequency distributions for the new variables by conviction type, comparing intimate partner and non-intimate partner homicides. Focusing on victim-offender relationship,⁹ as shown in the final column of [Table 4](#),

⁷ There are problems in determining whether or not there was victim participation because the victim is dead and, thus, the account of what happened comes from the offender unless witnesses were present. To increase accuracy, victim participation was not coded as present unless someone other than the offender verified the information or it was confirmed by other corroborating evidence.

⁸ Because the original study was part of a larger dissertation project, initial assessments were made only by the researcher which is the first author in the current study. In an effort to increase reliability, two additional individuals were asked to assess the cases with no prior knowledge of the original assessment. In all but five pairs, agreement was achieved by two of the three individuals. Unanimous decisions were not coded, only majority decisions, which is a limitation of the analysis. However, given the exploratory nature of the study, majority decisions were deemed as an adequate minimum threshold for agreement and agreement was found in the significant majority of cases.

⁹ Only frequency distributions are shown in [Table 4](#) due to the very small numbers in some cells. Percentages are listed in the text to show some of the differences across the two relationship categories and to make comparisons easier, although low frequencies can affect their stability when describing the differences.

Table 3
Group profiles for deep sample by type of victim-offender relationship.

Variable	Intimate partner (N = 54)	Non-intimate partner (N = 54)
Selection Criteria		
Murder charge filed	94%	94%
Murder conviction	61%	61%
Defendant is male	85%	85%
Victim was female	76%	76%
Guilty plea	41%	41%
Defendant has prior record	63%	67%
Killing after 1984	63%	56%
Average age of defendant	35 years*	30 years
Other Characteristics		
Defendant not married	33%***	74%
Defendant has at least one child	44%	28%
Defendant unemployed	41%**	70%
Defendant < 10 years education	49%*	76%
Defendant non-white	44%	41%
Defendant has psychiatric history	13%	19%
Defendant using substances	48%	61%
Defendant abused as child	18%	11%
Defendant in/out foster homes	11%	11%
Average age of victim	33.69	38.44
Victim not married	33%**	65%
Victim at least one child	47%	46%
Victim unemployed	43%	52%
Victim non-white	44%**	19%
Victim has prior record	17%	18%
Victim has psychiatric history	2%	9%
Victim using substances	37%	37%
Prior threats against victim	32%**	6%
Evidence of police contact	25%**	6%
Gun used in killing	9%	13%
Killing took place in public	15%	26%
Sentence length	11.24 years	12.24 years

Note: *p < 0.05 **p < 0.01 ***p < 0.001.

premeditation/intent was more often present in intimate partner homicides (22 of 54 cases; 41%) compared to non-intimate partner cases (17 of 54 cases; 31%), contrary to Stereotype 1. It is not the goal to generalize this finding given the small number of cases, but it does begin to challenge the validity of the common stereotype which holds that intimate partner homicides are more likely to be spontaneous compared to violence between more distant parties. The majority of intimate partner homicides may still involve spontaneity, but from this deep sample analysis, it appears they may be less likely to do so than non-intimate partner homicides.

Second, victim participation varied little across the two homicide types in contrast to Stereotype 2 which views victims killed by intimate partners as more likely to have contributed to/provoked their deaths than victims killed by others. Finally, cases involving substance use by both offenders and victims occurred with similar frequency in both homicide groups (15 intimate partner; 17 non-intimate partner). Substance use by offenders alone occurred most often among cases that involved non-intimate partners (13 of the 54 cases or 24% compared to 9 cases or 17% involving intimate partners). In contrast, offenders with a history of substance abuse were more common in intimate partner homicide, but there was little presence of or variation across cases in substance use by victims. Therefore, despite the perceived strong association between substance use and intimate partner violence, these findings suggest that alcohol plays a key role in many violent incidents, regardless of relationship.

Table 4
Coded elements of crime narratives by conviction type for intimate partners (IP) and other relationships types (OR), Toronto, 1974–1996.

Characteristics Coded	First Degree 8 pair/16 cases		Second Degree 25 pair/50 cases		Manslaughter 21 pair/42 cases		Total 54 pairs	
	IP	OR	IP	OR	IP	OR	IP	OR
Evidence of premeditation/intent	6	5	12	7	4	5	22	17
Victim participation	1	0	1	1	6	5	8	6
Excessive alcohol and/or drug use								
■ by defendant	0	2	8	7	1	4	9	13
■ by victim	0	1	2	0	1	0	3	1
■ by both defendant and victim	0	2	5	4	10	11	15	17
■ defendant's past substance abuse	0	3	6	3	7	3	13	9

Table 5

Type of comparisons in pair-wise analysis of crime seriousness and punishment in deep sample data, Toronto, 1974–1996.

Type of Comparison	# of Pairs	% of Sample	Mean sentence length (in years)		
			Total	Intimate partners	Other
Sentence shorter for intimate partner homicide	24	44	10.35	8.21	12.49
Same sentence received for both homicide types	17	32	16.12	–	–
Sentence longer for intimate partner homicide	13	24	8.60	10.46	6.73
Total	54	100			

3.2. Comparability of crimes and sentences

This section describes results from the comparison of each pair of cases to determine if similar homicides were treated similarly. Table 5 provides a breakdown of the deep sample pairs by comparison type and mean length of sentence for each group. Consistent with the majority of research, offenders who killed intimate partners and received shorter sentences than other types of offenders comprised the largest group (24 pairs or 44%). The average sentence for this group was just over 10 years with intimate partner killers averaging a sentence of about eight years whereas other offenders averaged 12.5 years. Pairs of cases in which offenders received similar punishments were the next largest group (17 pairs or 32%) with an average sentence of just over 16 years. Finally, offenders who killed intimate partners and received longer sentences than non-intimate partner killers represented the smallest group (13 pairs or 24%) with an average sentence of about 8.5 years. Those who killed intimate partners received, on average, a sentence of 10.5 years while offenders in the comparison group averaged almost seven years.

The above sentence differences are evident despite the fact that cases were matched according to various legal criteria. It was evident from the examination of new variables above, though, that there were differences in some characteristics not available for analysis in the wide sample. Therefore, the crime narratives and additional coded elements of the homicide were examined for each individual pair of cases to determine whether or not differences could be explained, in part, by these factors. While premeditation, victim participation and substance use were the key focus of comparisons, all characteristics were considered, if present, in the case as potential contributors to varying criminal justice outcomes. Even in deep sample cases where further information is gathered, some cases will have more information than others; however, it was the goal to consider any and all information that may impact the outcome as identified in previous literature.

Table 6 provides an overview of the results from the pair-wise comparisons as well as the distribution of pairs described as receiving what appear to be ‘warranted’ or ‘unwarranted’ punishments based on this comparison. It is acknowledged that designating punishments as ‘warranted’ and ‘unwarranted’ is subjective, but recall that the goal of this study is to distinguish those cases for which it might be understood why there were different sentences (referred to as ‘warranted’) from those for which it did not seem readily apparent (‘unwarranted’) even with the more detailed available data. For this examination, eight pairs were deleted from the deep sample because additional information was not available for one or both cases in the pair and crime narratives were incomplete as a result.

Table 6 demonstrates that, of those cases that shared the same statutory charges and convictions, one-third (or 15 of the 54 pairs) were comparable in offense seriousness. Of these, 60% (or 9 pairs) received the same sentence which seemed warranted. The remaining 40% (6 pairs) in this group received different punishments that could not be readily explained from the pair-wise comparison. Another 30 percent of the deep sample (14 pairs) involved intimate partner homicides that were judged to be less serious than non-intimate partner homicides. Of these, 57 percent (or 8 pairs) received punishments that appeared to reflect the differences in offense seriousness.¹⁰ Punishment disparity could not be accounted for in the remaining 42 percent (or 6 pairs).¹¹ Finally, the largest group of cases – 34 percent or 17 pairs – involved intimate partner killings that appeared to be more serious in nature than the non-intimate partner homicides. However, in contrast to the previous two comparisons, only 30 percent (or five pairs) received punishments that seemed to reflect the difference in seriousness (60% and 57% in the other comparisons). In the remaining 70 per cent (or 12 pairs), the offenders who killed intimate partners received equal or shorter sentences despite what appeared to be more serious homicides.

To demonstrate how these determinations were reached, each type of comparison is discussed below using one pair as an illustrative example.¹² In each example, two brief homicide narratives are presented followed by a summary of the similarities and differences, including convictions and sentences, and whether the different sentences might be explained. Pairs of cases for which punishment disparities appeared to be warranted are discussed first followed by those which appeared to reflect unwarranted punishment disparity.

¹⁰ One intimate partner homicide was deemed less serious than its comparison case, but a similar sentence was imposed due to sentence ranges used.

¹¹ Due to rounding error, numbers do not total 100%.

¹² Pseudonyms are used for the offenders.

Table 6

Pair-wise comparison of offense seriousness and warranted and unwarranted punishment disparity for 46 matched pairs, intimate partners (IP) and other relationship types, Toronto, 1974–1996.^a

	Pair-wise comparison of offense seriousness		
	Same seriousness	IP less serious	IP more serious
Punishments			
Warranted (Total = 22 pairs)			
• Same sentence imposed	9 pair (60%)	1 pair (7%)	–
• Intimate partners, longer sentence	–	–	5 pair (30%)
• Intimate partners, shorter sentence	–	7 pair (50%)	–
Unwarranted (Total = 24 pairs)			
• Same sentenced imposed	–	3 pair (21%)	5 pair (30%)
• Intimate partners, longer sentence	2 pair (13%)	3 pair (21%)	–
• Intimate partners, shorter sentence	4 pair (27%)	–	7 pair (40%)
Total (46 pairs)	15 pair (100%)	14 pair (100%)	17 pair (100%)

^a Eight pair were dropped because additional case information was not available in one or both cases.

3.3. 'Warranted' punishment disparity?

Table 6 shows that close to half the pairs (22 pairs or 48%) received sentences that could be at least partially explained and, thus, punishments were determined to be warranted. The largest group involved pairs in which offenders received similar sentences, followed by intimate partner killers who received shorter sentences and, finally, intimate partner killers who received longer sentences compared to non-intimate partner killers. Of the pairs for which similar sentences were imposed, Pair #18 exemplifies what is argued to be 'warranted' punishment.

Pair #18: Paula (intimate partner); **Sandra** (stranger)

Paula. Paula and her male victim were romantically involved for about eight months and were living together when the killing occurred. Both were intoxicated when an argument broke out and, at some point during the argument, the victim ended up dangling over their balcony. Paula's daughter tried to intervene at this stage, but was pushed away by Paula who then shoved the victim over the edge of the balcony to his death. Paula called the police, informing them that the victim, who had a history of substance abuse, had committed suicide. When suicide was ruled out as a possible cause of death, Paula changed her story, attempting to pin the crime on her brother who had also witnessed the incident. Paula's daughter and other witnesses finally revealed that it was Paula who was responsible for the homicide. (Case 9526)

Sandra. Sandra and the male victim had been at separate Karaoke bars on the night of the killing and both had been drinking. Sandra was celebrating her birthday with some friends. They decided to go to another bar and, when they arrived, the restaurant was quite busy and there was no seating available. Sandra approached the bar, removed the victim's grocery bags from one of the barstools and threw them on the floor. The victim became upset by this and an argument ensued that turned into a minor shoving match. Other patrons quickly separated them and the restaurant owner gave the victim another beer and suggested he go home after it was finished. Sandra and her friends were asked to leave the victim alone because he had some mental problems. Sandra entered the kitchen area of the restaurant and when she returned, she showed a knife to one of the witnesses, saying she was going to stab the victim. When the victim left the restaurant, Sandra and her friends followed him outside and another confrontation developed that turned into a fist fight. During the fight, Sandra produced the knife and stabbed the victim who immediately collapsed to the ground. Sandra hid the knife behind a utility pole and it was never recovered. Sandra and her friends fled the scene. A bystander called the police and witnesses identified Sandra who later turned herself into the police. Evidence later indicated that the victim was mentally handicapped and often pestered people in bars after he had been drinking. Police indicated that the victim's mental problems coupled with his alcohol consumption often gave people "the wrong impression." (Case 9629)

Both Paula, 40, and Sandra, 27, were charged with second-degree murder, but pled guilty to manslaughter and were sentenced to five years. In both cases, the victims and offenders were drinking heavily prior to the killings. Both victims could have been perceived as vulnerable by the courts. The victim in Paula's case had a history of substance abuse and the victim in the Sandra's case suffered unidentified mental problems. Paula and her victim were living together so their physical proximity was greater than Sandra who had just met her victim. In Paula's case, one potential aggravating factor may have been her efforts to obstruct justice by concealing her role in the victim's death. In contrast, Sandra turned herself into the police. However, there was evidence of premeditation or, at the very least, intent in Sandra's case. A witness testified that the Sandra said she was going to stab the victim. Two other aggravating factors were present in Sandra's case: use of a weapon and the public nature of the homicide. One potential mitigating factor was victim participation. Witnesses indicated that the victim apparently suffered from mental health issues and he often pestered people in bars. Thus, the two homicides appear to be similar. While there was no evidence of premeditation in Paula's case, she attempted to cover up her role in the killing thereby obstructing justice. Moreover, while there was some evidence of victim participation in Sandra's case, she may not have come into contact with the victim if she had not initially dumped his groceries onto the floor.

Of those cases in which shorter sentences were imposed on offenders who killed intimate partners, Pair #7 illustrates how this outcome was determined to be warranted.

Pair #7: Peter (intimate partner); **Gary** (brief acquaintance)

Peter. The offender claimed that he and the victim, his girlfriend, had been arguing about money in the days prior to the incident. On the day of the killing, the couple continued to argue while drinking heavily with a mutual male friend. Peter indicated that, in the heat of anger and frustration during this long argument, he stabbed the victim in the heart. He also claimed that he had fallen asleep during the evening and, when he awoke, their friend was trying to have sex with the victim. He said it was at this time that he stabbed her. The victim's blood alcohol level was five times the legal limit for driving when she was stabbed and Peter, who had a history of substance abuse, was said to be equally intoxicated although no reading had been taken. The friend was a witness to the killing. (Case 8831)

Gary. The victim had been drinking and using drugs when she met Gary drinking in the same tavern. They took a cab home to her apartment where the victim's boyfriend later caught them in bed together. He tried to get Gary out of the victim's apartment, but she wanted him to stay so her boyfriend left instead. Less than four hours later, she was killed in a frenzied knife attack that left 56 wounds on her body involving sexual mutilation. Some of the injuries had been inflicted as she was dying; others after her death. Gary claimed that the victim became upset during the evening and swung a knife at his throat. He grabbed her wrist and, as he was twisting the knife away from himself, the blade plunged into her heart. He lost control of himself, he claimed, because he knew that her death would get him into trouble with the police as he was on probation at the time. The victim's mother called the police when she discovered her daughter shortly after the killing. As the police were scouring the neighborhood, they spotted Gary on a street nearby. He was with a woman who was attempting to pull away from him. Gary commented, "She was next, man. Thank god you guys got me got carried away." (Case 8818)

Peter, 42, and Gary, 30, were charged with and convicted at trial of second-degree murder. Peter, who killed his girlfriend, was sentenced to the mandatory minimum of 10 years while Gary, who killed a brief acquaintance, was sentenced to 20 years. In both cases, victims and offenders had consumed large amounts of alcohol. The victim in Gary's case had been using drugs. In both cases, knives were used to kill the victims. Peter had a history of substance abuse and his killing was interracial (i.e. he was white and his victim Aboriginal Canadian). While it is unclear whether his substance abuse would have been perceived by the courts as mitigating or aggravating, research has shown that when victims are non-white, punishments for violence may be shorter, especially if offenders are white (see reviews [Kleck, 1985](#); [Kramer and Steffensmeier, 1993](#); [Spohn, 1996](#)). Peter did not use excessive violence, in contrast to Gary, who stabbed his white victim 56 times and mutilated her while she was dying and after her death. A further aggravating factor may have been the fact that Gary was arrested while trying to attack another woman. At the time of his apprehension, Gary made statements to police that alluded to the killing and indicated they had prevented him from killing again. Thus, despite the fact that both cases involved the consumption of alcohol and appeared to be archetypes of alcohol-infused, hot-blooded violence, the extreme gratuitous violence inflicted by Gary on his victim as well as his attempt to harm someone else likely increased the seriousness of his offense due to the perception that he posed a greater public threat as well as future danger.

Finally, there were a number of cases in which the intimate partner homicides appeared to be more serious than killings of non-intimate partners and the punishments appear to reflect these differences as shown in the example below.

Pair #41: Karen (intimate partner); **Nancy** (non-intimate)

Karen. The offender in this case had apparently become increasingly enraged over her husband's efforts to send her back to China and his demands for sex. On the day of the killing, Karen claims she lost control of herself, exploding in anger, striking the victim 14 times in the head with a meat cleaver. She then dressed the victim's body, dragged it out into the backyard of their home and left it in the snow where it was discovered eight days later. Before marrying, the couple had worked together at a factory in their native China. They continued to keep in touch through correspondence after the victim and his family moved to Canada. He returned to China to marry her in 1982 and she joined the family in Toronto. The marriage was never consummated, a fact that upset the husband and his parents. Karen had allegedly been making inquiries about how to get a divorce, but found out that if she left her husband, her immigration status might be affected. She was later reported to have remarked to a friend that she would be better off if her husband was dead. Her husband apparently verged on borderline retardation. Karen had previously been hospitalized for psychiatric problems. She continued to deny her role in the killing, fabricating other scenarios until physical evidence tied her to the victim's death. (Case 8510)

Nancy. Both the victim and offender were drug dealers who, about one month prior to the killing, had a dispute over the price of crack. During this incident, Nancy, who was unarmed, was slashed by the victim. On the day of the homicide, Nancy lured the victim to a rooming house. When she found out he was on his way, she said in front of witnesses, "Now, it's my turn" and took out a knife. The victim arrived and was overheard apologizing to her for their previous dispute. Nancy attacked the victim, plunging a knife into his heart. He died en route to the hospital. Witnesses indicated that Nancy had frequently threatened to kill the victim to get even with him for disfiguring her. Evidence also showed that Nancy washed the knife in the kitchen sink after killing the victim and got rid of it. Police later recovered the weapon in a garbage container behind the rooming house. Both Nancy and her victim had been drinking the night of the homicide and both had a history of substance abuse, primarily crack. (Case 9413)

Karen, 27, and Nancy, 18, were charged with first-degree murder, but both pled guilty to manslaughter. Karen was sentenced to 10 years. Nancy was sentenced to 2.5 years. There was evidence of premeditation in both cases. While Karen claims that she lost control in an argument with her husband, she had earlier remarked to a friend that she would be better off if her husband was dead. Nancy, who had been slashed by the victim in a prior incident, lured the victim to a rooming house that they both frequented for the purpose of a revenge stabbing. Both cases involved the use of a bladed weapon. Karen used a meat cleaver and Nancy used a knife. Some degree of victim participation may have been perceived in both cases. In the first

case, the victim's threats to send Karen back to China were perceived as real by Karen, who believed the victim had the power to do so. In Nancy's case, while her killing was motivated by revenge, the victim did attack her first albeit about a month prior to the homicide. A number of differences may explain the sentences in these two cases, however. Karen's case involved excessive violence. She struck her victim in the head 14 times with a meat cleaver. Nancy stabbed her victim once. Karen also tried to conceal the killing by dressing the body, dragging it across the snow to the backyard, and leaving it in the snow where it was discovered by accident over a week later. She also initially denied the killing, blaming it on others in the family thereby obstructing justice. A potential mitigating factor may have been that she was previously hospitalized for psychiatric problems. In contrast to Karen's case, there appeared to be more mitigating factors in Nancy's case. Both Nancy and her victim had been drinking and using crack and both had substance abuse histories, thus, the extensive role of substance abuse may have decreased Nancy's culpability. Nancy remained at the scene and confessed to the killing when the police arrived, making no efforts to conceal her role. Finally, Nancy was 18 years old and her youth may have acted to reduce her sentence despite being tried as an adult.

3.4. 'Unwarranted' punishment disparity?

With regard to unwarranted disparities in punishment, 52% (or 24 pairs) appeared to reflect unwarranted disparity. The most common pattern in the deep sample involved intimate partner homicides that were either similar in offense seriousness or more serious than the non-intimate partner homicide, but the former received shorter sentences than the latter as described below.

Pair #8: Paul (ex-lover); **Danny** (stranger)

Paul. The victim and offender had broken up a few months prior to the killing, but Paul owed the victim some money. They agreed to meet so he could repay the debt. The victim told her friend about the pre-arranged meeting, indicating that she was afraid of Paul and so was only going to open her car window so he could put the money through. Later that day, Paul pulled up to a convenience store, shouting to the employees that he and the victim had both been stabbed by a stranger as they were sitting in the car. The police were notified. Paul had superficial stomach wounds that police indicate were self-inflicted to support his version of the attack. The victim had suffered three stab wounds, one of which struck her heart. As she lay dying in the hospital, she told a nurse that the offender had stabbed her. (Case 9314)

Danny. The offender in this case stabbed the victim 14 times in the laundry room of her apartment building where the offender's brother also lived. Danny had armed himself with a butcher knife in order to rob the coin-operated washing machines in the public laundry room. It was here that he encountered the victim. Danny had recently been released from prison after a 14-year sentence for attempted murder. He had mental problems and the judge had recommended that he undergo psychological treatment while in prison, but he did not. He had received some outpatient treatment. Physical evidence tied the offender to the killing. (Case 8020)

Paul, 21, and Danny, 27, were both charged with first-degree murder, but found guilty at trial of second-degree murder. Paul was sentenced to the mandatory minimum sentence of 10 years. Danny received the maximum 25-year sentence. Both offenders killed their victims with knives in semi-public locations. Paul met his victim in a parking lot where he killed her in her car. Danny killed his victim in the laundry room of the victim's apartment building. There is clear evidence of premeditation in Paul's case, however. He brought a knife to a scheduled meeting with the victim – a meeting about which the victim had expressed fear to her co-workers. Paul had allegedly been violent toward the victim in the past and she was afraid of him. After killing her, in an attempt to conceal his own role, he stabbed himself to make the crime look like it was perpetrated by a stranger and he was an additional victim. He did not count on the victim surviving long enough to identify him. Danny used excessive violence to kill his victim, stabbing her 14 times with a butcher knife. However, while he intended to rob the coin-operated machines, it apparently was not his intention to kill the victim; rather it appears she was in the wrong place at the wrong time. Thus, the degree of premeditation is not evident in Danny's case to the degree it is in Paul's. Further, while the court may have recognized that Danny had psychiatric problems for which he needed treatment, due to the severity of his sentence, it does not appear that this acted as a mitigating factor. In conclusion, despite Danny having a prior conviction for attempted murder, Paul's sentence appears short in comparison given the details of both cases. It may be that Danny was seen as more of a threat to the public and posing greater future danger given the indiscriminate selection of his victim and his psychiatric problems in contrast to Paul who killed a woman who left him.

Contrary to the common assumption that punishment disparity in cases of criminal violence by type of victim-offender relationship generally involves shorter sentences for offenders who killed intimate partners, this analysis found that five pairs involved longer sentences for offenders who killed intimate partners, despite their cases appearing to be less serious. This disparity could not be readily explained as shown in the example below.

Pair #43: Geoff (girlfriend); **Jerry** (brief acquaintance)

Geoff. The victim and offender met in a hotel where they both went to watch the Grey Cup game on television. Geoff and the victim quickly developed a close relationship and, for the six days that they knew each other, they spent all their free moments together. The victim had commented to a friend, "This is the man I will marry." On the day before the killing, they went to a tavern for drinks and then returned to Geoff's apartment. He went to sleep, but the victim begged him to wake up and keep her company. An argument broke out about marriage and continued on and off for about two hours. At one point, the offender put his hands around the victim's neck and squeezed until she was dead. He stuffed her into a sleeping bag, head first, and laid down beside her to sleep. He rose a few hours after, shaved, packed his clothes, took her car keys and moved his

own car across the street to the parking lot of a doughnut shop where he stopped for coffee. He left a note for his parents and a note on the dead woman's body and fled town. Neither note explicitly identified him as the killer. He turned up in Winnipeg where he eventually turned himself into the police. (Case 8553)

Jerry. According to the offender, the victim in this case was a prostitute who had agreed to have consensual sex with him. Their 'sex act' took place in a city park. Following this, Jerry apparently strangled and beat the victim to death after she said something that angered him. He was arrested after forensic evidence linked him to the victim's body. He confessed to the crime at that time. Both Jerry and the victim had been drinking and using drugs at the time of the incident. (Case 9211)

Geoff, 23, and Jerry, 23, were both charged with first-degree murder, but pled guilty to second-degree murder. Geoff was sentenced to 20 years, 10 years above the mandatory minimum whereas Jerry received a 13-year sentence. There were few similarities in these two homicides with the exception that both appeared to erupt out of quarrels and both victims were strangled. In the first case, Geoff and his victim argued over their marriage while Jerry and his victim argued after she said something that angered him. While Geoff initially fled the scene after the killing, he later turned himself in and this may have acted as a mitigating factor. In contrast, Jerry did not confess to the killing until forensic evidence led to his arrest. Both Jerry and his victim were drinking and using drugs at the time of the killing (in contrast to the first case); however, two aggravating factors were unique to his crime. First, Jerry used excessive violence to kill his victim, both strangling and beating her to death. Second, his crime took place in a public location (i.e. a city park). Thus, Jerry's crime may have been seen as more serious because of his excessive violence and the public nature of the killing. However, one potential explanation for his shorter sentence may stem from the fact that his victim was a prostitute while Geoff's victim was professionally employed. However, despite the potential effect of the victims' perceived 'respectability', based on the relative seriousness of both crimes, the longer sentence in Geoff's case could not adequately be explained.

4. Discussion and conclusion

In this paper, the goal was to determine whether offenders who killed intimate partners and offenders who killed victims with whom they shared other types of relationships were treated similarly by the courts for arguably similar crimes. Consistent with what [Daly \(1994\)](#) found regarding gender differences in sentencing, the results demonstrate that, at the very least, controls for offense severity in traditional, quantitative research may not effectively control for variations among violent offenses and, in this case, homicides. The pair-wise analysis demonstrated that unexplained disparities in punishment were most common among pairs in which the intimate partner homicide appeared to be more serious than the non-intimate partner homicide. Specifically, despite what appeared to be more serious homicides, offenders who killed intimate partners received shorter sentences in the majority of cases than other offenders. While much effort was directed at making case comparisons valid, before discussing the contributions of this study, some limitations are outlined below.

First, judgments about offense severity involve subjective, rather than objective, processes. As already noted, the crime narratives are the first author's reconstruction of the offense following the collection of additional information from official and unofficial reconstructions. As a consequence, the above descriptions will be shaped by the interests and perspectives of these observers. Furthermore, assessments of offense seriousness by one individual will be shaped by his/her own experiences and, thus, may differ somewhat from what others would conclude about the relative severity of crimes. Attempts were made to address this limitation by having additional individuals read the deep sample pairs and assess, in their view, if either of the offenders in the matched pair warranted a longer sentence or if the offenders warranted the same sentence.

Second, despite efforts to compare 'similar' cases, one still faces the dilemma of justifying the criteria by which one identifies similar harms or at what level of accuracy it is possible to determine when offenses are 'sufficiently' similar. One way that the current study attempted to address this concern was by choosing a unit of analysis that comprised only one type of violent crime – culpable homicide. This implicitly controlled for offense seriousness by keeping to a minimum the number of variables that differentiate among the type of violence. However, the law recognizes that there are different degrees of culpable homicide and, within each of these categories, variation in harm or offender culpability may still exist along a number of dimensions. Matching cases according to charge-conviction categories sought to address this issue, but variation remains. Variations may be due, in part, to initial charging decisions not captured in the records whereby intimate partner homicides with fewer aggravating circumstances may be afforded leniency at the initial charging stage in the form of a charge reduction ([Adams, 1983](#); [Simon, 1996a](#)). Third, [Daly \(1994: 126\)](#) has argued that judgments about offense severity are rooted in cross-cutting relations such as gender, class, race, age and sexuality. As a result, it is not possible to fully separate the effects of these other factors and their association with sentence outcomes from the role played by intimacy in judgments about the severity violence. The goal of this analysis, however, was to highlight the complexity of these cases and the way in which various less-studied factors may play a role in the ultimate outcomes requiring more nuanced analyses.

Finally, a number of factors were identified in this study that prior research has shown are important when constructing seriousness in cases of violence. However, violent acts involve complex contexts and circumstances and, as a result, they cannot be assessed in a linear, additive fashion ([Daly, 1994](#)). For example, some of the factors (e.g. substance abuse) used to assess offense severity could either downgrade or upgrade seriousness, depending on the particular context of the homicide and/or other circumstances surrounding the incident. Thus, while the new variables can be used to assess the comparative seriousness of offenses, what role they actually played in criminal justice decision-making remains unclear. [Daly \(1994\)](#) writes, "It is easy to compare normative theories of punishment and their prescriptive practices, but with some exceptions, we lack information on how theories and associated practices are articulated in criminal proceedings" (p.170). An

examination of sentencing transcripts would be a first step in accessing such information and making the link between case elements and sentencing judgments and this should be a priority for future research.

Therefore, determining how to assess whether homicides are similar, what factors are relevant in such comparisons, and how these factors may impact sentencing decisions remains a complex issue for which this paper can only serve as an impetus for future discussion. Despite these limitations, this study has begun to challenge the validity of the role of what are argued here to be dominant and commonly-accepted stereotypes about intimate partner homicide. The study's results further showed the way in which these stereotypes may help determine punishment outcomes in these cases. In short, the results presented call into question the common acceptance of particular stereotypes, highlighting the potential power they may have on outcomes in law, regardless of their lack of empirical support. For example, this study showed that evidence of premeditation/intent occurred with less frequency among cases that involved intimate partners rather than among cases with victims and defendants who shared more distant relationships. This contradicts the strongly-held popular belief that intimate partner violence is often the result of strong emotion or loss of control (i.e. spontaneous crimes of passion) that undermines one's ability to form intent and thereby reduces offender culpability. Furthermore, the results showed that victim participation was no more likely to be present in crimes involving intimate partners than in crimes involving those who shared other types of relationships despite the popular belief that victim provocation is more common in the former type of homicide.

This study contributes, then, to previous research in the area of criminal stereotyping by examining the way in which dominant stereotypes about intimate partner violence and homicide may lead to shorter sentences compared to other types of violence or homicide. While conclusions must be tentative given the small number of cases and the focus on one jurisdiction, various challenges have been highlighted and should be examined in future socio-legal research given the potential impact these still relatively-unsupported stereotypes might have for offenders and victims. For example, various rationales for punishment (e.g. deterrence, incapacitation) may be seen as less appropriate responses to crimes that occur between intimate partners because of stereotypes that portray offenders who kill intimate partners as otherwise peaceable individuals who are unlikely to pose future danger or a public threat (now that their intimate partner is dead). In contrast, defendants who killed victims with whom they did not share an intimate relationship are more often portrayed as 'dangerous,' posing a future threat to the general public. These themes are consistent with research by Miethe (1987) who found that factors indicative of 'dangerousness' were more important in cases that involved strangers than in cases that involved victims and offenders known to each other. While alternative explanations are possible for the findings presented here, it is recognized that stereotypes surrounding various types of violence remain alive and well and that fact, in itself, is important and requires further investigation.

The question of whether defendants receive equal treatment before the law is a complicated one because the concept of justice has various definitions and it may be a question of equitable rather than equal treatment. If we consider violence between partners to be an aggravating factor, perhaps equitable treatment means that these cases are subject to harsher punishments. At the most basic level, however, whether equal or equitable treatment is the goal, this means that defendants accused and convicted of statutorily-similar offenses have actually engaged in similarly-serious crimes. This study showed that this may not always be the case, at least with respect to homicide, and that more detailed analyses may be required than the more common quantitative approach using larger data sets. Moreover, the study showed that it is often those cases that involve intimate partners that result in shorter sentences despite the fact that they may be more serious in nature. While some of these disparities were explained, others were not and such a finding is disturbing given the emphasis in recent decades on increasing awareness, both publicly and within the legal profession, about the seriousness of intimate partner violence.

In 1998, a jury verdict and accompanying recommendations that resulted from an inquest in one Canadian province after the death of woman by her male intimate partner stated that "the myths attached to family violence must be dispelled. Domestic violence is a criminal offense and must never be viewed as a private matter ... The criminal justice system will have to be changed to deal effectively with these differences". This inquest followed the introduction of Bill C-41 in 1996 that amended the sentencing principles in the Canadian criminal code so that violence between spouses should now be considered an aggravating factor in sentencing. Feminists and grass-root organizations have been working toward these goals since the early 1970s and, on the surface, it appears that some changes have occurred, but there is still work to be done.

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