

CRIMINAL JUSTICE OUTCOMES IN
INTIMATE AND NON-INTIMATE
PARTNER HOMICIDE CASES

Criminal Justice Outcomes in Intimate and
Non-intimate Partner Homicide Cases

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*The views expressed in this report are those of the
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Highlights

- From 1974 to 2002, there were 1,612 reported homicides in the City of Toronto. For the 1,324 solved homicides, 1,416 accused persons were identified and 1,137 were charged. Among this group of 1,137 accused persons, 230 (20 percent) were charged with killing an intimate partner and 907 (80 percent) were charged with killing victims with whom they shared more distant relationships.
- During this period, 91 percent of the charges laid were for murder – 37 percent of those accused were charged with first-degree murder and 54 percent were charged with second-degree murder. In the remaining nine percent of the cases, eight percent of the accused were charged with manslaughter and one percent with other offences. Of those charged, 58 percent had their cases resolved at trial and 42 percent were resolved through guilty pleas. Of those resolved at trial, 60 percent of the accused were found guilty at trial and 40 percent were acquitted. Of those acquitted, 37 percent were found ‘not criminally responsible by reason of mental disorder.’ Overall, then, 76 percent of the 1,137 charged were convicted. Of those convicted, nine percent were convicted of first-degree murder, 30 percent were convicted of second-degree murder and 54 percent were convicted of manslaughter.
- With respect to sentencing, 83 percent of those convicted were sentenced to a federal institution and the average sentence was approximately nine years. Of those convicted of manslaughter, the average sentence was 5.5 years and, of those convicted of second-degree murder for which the minimum mandatory sentence is 10 years, the average sentence was 12.5 years. All those convicted of first-degree murder are sentenced to 25 years before parole eligibility.
- Comparing outcomes in cases of intimate and non-intimate partner homicide, different treatment was found at the following stages: initial prosecution charge, mode of conviction, verdict at trial and overall likelihood of conviction. Specifically, accused persons who killed intimate partners were significantly less likely to be charged with first-degree murder than those who killed non-intimate partners; cases that involved intimate partners were significantly less likely to be resolved at trial than cases involving non-intimate partners; of those cases resolved at trial, those accused of killing intimate partners were more likely to be found guilty at this stage than those accused of killing non-intimate partners; and, finally, accused persons who killed intimate partners were more likely to be convicted overall than accused persons who killed victims with whom they shared more distant relationships.
- The treatment of these two types of homicide accused persons varied during the study period, however. Comparing two time periods that parallel changes in law and policy – 1974-1983 and 1984-2002 – accused persons were more likely to be found guilty at trial in the more recent period than those accused of killing non-intimate partners. This was not the case in the early period. Moreover, given that accused persons in intimate partner homicides were more likely to plead guilty overall and more likely to be found guilty at trial than accused persons in non-intimate partner homicides, they were also more likely to be convicted overall in the more recent period. Finally, while accused persons in cases of intimate partner homicide were less likely to be convicted of murder in the early period of the study, this was no longer the case in the more recent period.

Executive Summary

The purpose of this report is to examine the role of intimacy in criminal law by comparing criminal justice outcomes in cases of intimate partner homicide to outcomes in cases of non-intimate partner homicide. *Intimate partner homicide* is defined here as those killings that occur between current or former legal spouses, common-law partners or dating couples. *Non-intimate partner homicide* is defined as those killings that occur between family members (not including spouses), friends, acquaintances and strangers. Two research questions are addressed: (1) Do those accused of killing intimate partners receive different treatment in the criminal justice system compared to those accused of killing victims with whom they shared more distant relationships? (2) Has the role of intimacy in criminal law changed over time? These are important research questions because the way in which the courts in Canada and other developed countries respond to intimate partner violence has been the subject of much debate in the past several decades and numerous legislative and policy changes have occurred as a result.

Data analyzed in this report were collected in two different stages. Data on homicides that occurred in the single, urban jurisdiction of the City of Toronto from 1997 to 2002 were collected as part of this research project whereas data on homicides from 1974 to 1996 were part of an earlier project by the author. By merging these two data sets, the sample in this study includes all homicides known to and recorded by legal and medical officials in Toronto and resolved through the adult criminal justice system between and including 1974 to 2002 – a period of almost three decades. The primary source of information for this study was Crown Attorney files.

From 1974 to 2002, there were 1,612 reported homicides in the City of Toronto. Of these, 288 remain unsolved; that is, no accused has been identified. For the 1,324 solved homicides, 1,416 accused persons were identified and 1,137 were charged. Among the group of 1,137 accused persons, 230 (20 percent) were charged with killing an intimate partner and 907 (80 percent) were charged with killing victims with whom they shared more distant relationships. These figures are consistent with the most recent national figures that indicate one out of every five homicides involve intimate partners. Comparing these two types of homicide, eight criminal justice outcomes are examined: initial prosecution charge, the mode of conviction, verdict at trial, type of acquittal, overall likelihood of conviction, severity of conviction, type of sentence and length of sentence.

In the Toronto sample, 91 percent of the initial charges were for murder – 37 percent of accused were charged with first-degree murder and 54 percent were charged with second-degree murder. In the remaining 9 percent of the cases, 8 percent of the accused were charged with manslaughter and 1 percent of the accused were charged with other offences. In the total sample, 58 percent of the cases were resolved at trial and 42 percent were resolved through guilty pleas. Of those resolved at trial, 60 percent of the accused were found guilty. Overall, including both trials and guilty pleas, 76 percent of the 1,137 accused persons were convicted. Of those convicted, 9 percent were convicted of first-degree murder, 30 percent were convicted of second-degree



murder and 54 percent were convicted of manslaughter. Finally, at the sentencing stage, 83 percent were sentenced to a federal institution and the average sentence was approximately 9 years. Of those convicted of manslaughter, the average sentence was 5.5 years and, of those convicted of second-degree murder for which the minimum mandatory sentence is 10 years, the average sentence was 12.5 years. All those convicted of first-degree murder are sentenced to 25 years before parole eligibility.

With respect to the first research question – are accused who kill intimate partners treated differently than accused who kill other types of victims – the findings demonstrate that intimacy does appear to matter in criminal law, but more so at earlier stages of the criminal justice process. The four key findings are as follows:

- *Initial prosecution charge:* At the initial charging stage, accused persons who killed intimate partners were significantly less likely to be charged with first-degree murder than those who killed victims with whom they did not share an intimate partner relationship.
- *Mode of conviction:* Cases that involved intimate partners were significantly less likely to be resolved at trial than cases of non-intimate partner homicide. In other words, accused persons who killed intimate partners were more likely to plead guilty than those who killed non-intimate partners.
- *Verdict at trial:* Of those cases resolved at trial, those accused of killing intimate partners were more likely to be found guilty at this stage than those accused of killing non-intimate partners.
- *Overall conviction:* Accused persons who killed intimate partners were significantly more likely to be convicted overall than accused persons who killed victims with whom they shared more distant relationships. This finding is likely due, in large part, to the greater likelihood that they are also more likely to plead guilty as noted above.

Since the early 1970s, there has been enormous growth in the amount of public and professional attention given to violence within the family, but more particularly, to the problem of violence against women within intimate relationships. Work by feminists and grassroots organizations have drawn the attention of both members of the public and the legal profession to what was traditionally perceived to be a private family problem not appropriate for legal intervention. As a result, in the past several decades, social and legal reforms and other government initiatives have targeted intimate violence, moving it from a private to a public concern. Based on these changes, it might be reasonable to expect that this heightened awareness of or sensitivity to intimate violence may influence the way in which criminal justice officials respond to violent crime. While it was not possible to test here whether there is a causal link between these changes and criminal justice responses to intimate violence over time, the second research question in this study examined whether the role of intimacy in criminal law had changed during the past three decades, paralleling this increasing concern.

With respect to this research question, the key findings are as follows:

- *Mode of conviction:* Accused persons in intimate partner homicides were less likely than accused persons in non-intimate partner homicides to have their cases resolved at trial in both periods examined (1974-1983 and 1984-2002). In short, guilty pleas appear to be more common in cases of intimate partner homicide than in cases of non-intimate partner homicide and this has remained so over time.
- *Verdict at trial:* Of those cases resolved at trial, those accused of killing intimate partners were more likely to be found guilty at trial than those accused of killing non-intimate partners in the more recent period. This was not the case in the early period.
- *Overall conviction:* Given that accused persons in intimate partner homicides were more likely to plead guilty and more likely to be found guilty at trial than accused persons in non-intimate partner homicides, they were more likely to be convicted overall in the more recent period. In contrast, those who killed intimate partners were not more likely than those who killed non-intimate partners to be convicted overall in the earlier period.
- *Severity of conviction:* Accused persons in cases of intimate partner homicide were less likely to be convicted of murder (first- or second-degree) in the early period of the study. However, this was no longer the case in the more recent period.

Based on these findings, then, one can tentatively conclude that intimacy does matter in criminal justice decision-making, but that the role of intimacy has changed over time. To achieve a better understanding of this association, however, several important areas for future research are identified. First, how do we explain the association between intimacy and the plea resolution process? What is it about cases of intimate partner homicide and/or the accused persons involved that seem to make them or their cases more amenable to plea resolutions than other types of cases?

Second, determining how to assess whether homicides cases (and other types of violence) are similar in both a social and a legal context and what factors may be important when making such comparisons remains an issue. In particular, understanding the role of three important legal variables – premeditation, provocation and intoxication – in cases of intimate partner and non-intimate partner homicide is important, but traditionally this information has been largely absent from criminal justice research. Related to this, stereotypes that are associated with violent crime based on the type of victim-accused relationship need to be examined in more detail to determine, first, if they are valid and, second, how they may frame expectations about and responses to violence by criminal justice actors.

Finally, and perhaps most important, researchers need to continue to examine trends in criminal justice outcomes while at the same time working toward an understanding of what explains the patterns documented here and in future research. This study has shown that changes have occurred in the way intimacy is treated within the courts and these changes appear to parallel the increasing concern about and awareness of intimate violence as a serious social issue. However, it was not the goal of this study nor can it be concluded based on its findings that there is a direct



link between the implementation of new laws and/or policies that target the treatment of intimate partner violence in criminal law and changing criminal justice responses over time. It does suggest, though, that such an association is possible and warrants further investigation. To do so, however, requires better criminal justice data than are available. Currently, no national data sources are available that are able to link information on victim, accused and offence characteristics to criminal justice outcomes in criminal cases. In addition, adequate measures of the desired outcomes of programs and initiatives need to be developed. Ideally, this would occur prior to rather than post-implementation. Finally, more research needs to focus on the attitudes, beliefs and reasoning practices of criminal justice officials who respond to violent crime.



1.0 Introduction

Are some types of violent offenders treated differently by the courts because of the relationship they share or shared with their victims? Many people believe that the answer to this question is ‘yes’ – that offenders who victimize people with whom they are or have been intimate receive lighter sanctions for their crimes than offenders who share more distant relationships with their victims. Some also believe that this ought to be the case (Miller et al., 1991; Rapaport, 1991, 1994). That is, violence between intimates is typically perceived to be the archetype of anger-driven or expressive crime because of the intensity of intimate relationships and the accompanying interactions (Messner & Tardiff, 1985; Sampson, 1987; Parker & Smith, 1979; Smith & Parker, 1980; Loftin, 1986; Maxfield, 1989; Rojek & Williams, 1993). Thus, an offender who victimizes an intimate partner is often seen to be less culpable for his or her crime. In contrast, killings between those who are not intimate are more often presumed to have an instrumental character and to occur in the context of violence committed for gain (Block, 1981; Riedel, 1987; Rojek & Williams, 1993). The findings of research to date, however, have not allowed for any conclusive statement regarding the role of intimacy in criminal law and, until recently, there has been no systematic analysis of this question in Canada (see Dawson, 2003a, 2004). This represents a significant gap in the research given that the degree of intimacy that exists between an accused and his or her victim has long been considered a key explanatory variable in research on social and legal responses to violence (Decker, 1993; Black, 1976, 1993; Gottfredson & Gottfredson, 1988; Horwitz, 1990).

In 2003, the dearth of research on the role of intimacy in criminal law was highlighted by a report released by Department of Justice Canada entitled, *Report on Sentencing for Manslaughter in Cases Involving Intimate Relationships*. The Federal-Provincial-Territorial (FPT) Ministers Responsible for Justice had requested the report after a sentencing decision in Prince Edward Island outraged residents there, prompting a protest and a petition that called for stiffer penalties in such cases.¹ The decision – *R. v. Sheppard* – involved accused Fred Sheppard, who had been charged with second-degree murder for beating to death his female common-law partner, Kimberly Ann Byrne, in their home in Cardigan, Prince Edward Island. Sheppard later pleaded guilty to manslaughter and was sentenced to 10 years in prison before being eligible for parole. Noting that statistical information is limited on criminal justice in this country, the 2003 report outlined a number of recommendations, one of which emphasized that Canadian research needs to look more closely at criminal justice outcomes in cases of intimate partner homicide. This study responds to that recommendation by comparing criminal justice outcomes in cases of intimate partner homicide to outcomes in cases of non-intimate partner homicide.

¹ According to media reports, residents of Prince Edward Island were also upset about the reduction in charge from second-degree murder to manslaughter.

Two general research questions are addressed:

- (1) Do those accused of killing intimate partners receive different treatment in the criminal justice system compared to those accused of killing victims with whom they shared more distant relationships?
- (2) Has the role of intimacy in criminal law changed over time?

Intimate partner homicides are defined in this report as those that occur between current or former legal spouses, common-law partners or those who were dating. *Non-intimate partner homicides* are defined as those that occur between family members (not including spouses), friends, acquaintances and strangers. Before describing the present study, the next section discusses why intimacy might affect criminal justice decision-making and what is currently known about the role of intimacy in criminal law by summarizing research that has examined how the victim-accused relationship – the best available proxy for intimacy – affects criminal justice outcomes in cases of violent crime.



2.0 Literature Review

2.1 Why might intimacy matter?

Criminal justice theory and research has drawn attention to the way in which legal actors such as police and prosecutors may use screening devices to filter cases through the criminal justice process – devices that may take into account factors that are not directly related to the criminal act itself (Becker, 1963; Black, 1976; Emerson, 1983; Erikson, 1964; Horwitz, 1990; Kitsuse & Cicourel, 1963; Rubington & Weinberg, 1978; Schur, 1971; Sudnow, 1965; Swigert & Farrell, 1977). More specifically, this work has highlighted the way in which certain expectations may develop over time about the nature of an offence based on the characteristics of the individuals involved or on particular concerns that arise in a community. As a result, these expectations may often shape public and professional attitudes about certain crimes that, in turn, help identify those individuals who are or should be defined as criminal (Farrell & Swigert, 1986). In short, criminal justice actors, like other social control agents and the public at large, may rely on stereotypes or assumptions about crime and criminals that lead them to focus on some offences and offenders more than others.

The degree of intimacy that exists between an offender and his or her victim is one characteristic that has been shown to generate stereotypical images in cases of interpersonal violence, often leading to different punishments (Miethe, 1987; Rapaport, 1991, 1994; Waegel, 1981). For example, as noted earlier, intimate violence is often believed to involve intense emotion or passion, such as desperation or rage, which may act to decrease the accused person's culpability in law (Loftin, 1986; Maxfield, 1989; Messner & Tardiff, 1985; Parker & Smith, 1979; Rojek & Williams, 1993; Sampson, 1987; Smith & Parker, 1980). In contrast, non-intimate violence is often presumed to be instrumental in nature thereby often lacking strong emotion or loss of control (see Block, 1981; Riedel, 1987; Rojek & Williams, 1993). This perceived lack of emotion, in turn, increases an offender's culpability and, consequently, the severity of punishment imposed. Research has also shown that crimes between intimates are more often perceived to involve some degree of victim responsibility, precipitation, or provocation than crimes that occur between non-intimates (Rapaport, 1991; Riedel, 1987; Wolfgang, 1957). Within the criminal process, the legal notion of provocation generally mitigates the culpability of an offender, leading to lighter punishments (see Miethe, 1987; Williams, 1976). Based on these and other stereotypes that may be associated with the victim-accused relationship in cases of interpersonal violence, it is commonly assumed that the degree of intimacy that victims share with the accused will (and possibly should) affect criminal justice outcomes, leading to more lenient sanctions.²

² For a more detailed discussion of stereotypes that are associated with intimate and non-intimate violence, see Dawson (2001).

2.2 Does intimacy matter?

Until recently, there has been little Canadian research that has systematically examined the role played by victim-accused relationship in criminal justice decision-making. As such, much of what is known about the role of intimacy in criminal law comes from research conducted elsewhere, primarily the United States. A review of this research demonstrates that the association between intimacy and criminal law is more complex than traditionally believed. For example, findings from studies that use bivariate analyses generally find an association between the victim-accused relationship and court outcomes, demonstrating that violence between intimates is treated more leniently by criminal justice officials than violence that occurs between non-intimates (Ferraro & Boychuk, 1992; Hickman, 1995; Lundsgaarde, 1977; Rapaport, 1994; Vera Institute, 1977). However, the effect of the victim-accused relationship on outcomes in cases of violence is less clear in multivariate analyses that control for the effects of other legal and extra-legal factors on criminal justice decision-making. Some of this multivariate research confirms the findings from bivariate analyses, supporting the belief that accused persons who victimize people known to them or with whom they were intimate are generally treated differently within the criminal justice process (e.g. Horney & Spohn, 1996; Erez & Tontodonato, 1990, Miethe, 1987; Williams, 1976) In contrast, other studies find no association between the victim-accused relationship and the allocation of criminal sanctions (e.g. Albonetti, 1991; Simon, 1996b; Myers, 1979a; Myers, 1979b).

Research has also shown that the role of intimacy in criminal law may depend on the stage of the criminal process examined. That is, the victim-accused relationship may be associated with different treatment at one stage of the criminal process, but not at other stages. For example, accused persons who victimize intimates may more often resolve their cases through plea bargains than those who victimize non-intimates. However, there may be little difference in the rate at which accused persons in the two types of homicide are found guilty at trial. Some studies that have examined several decision points in the criminal process have shown that intimate violence is treated more leniently than non-intimate violence. More specifically, this work has demonstrated that accused persons who victimized intimates were³: (1) more likely to have their cases dismissed at the initial charging stage (Miethe, 1987); (2) more likely to have their cases dismissed at the pre-trial dismissal stage (Miethe, 1987); (3) less likely to be found guilty at trial (Myers, 1980); (4) less likely to be sentenced to prison (Erez & Tontodonato, 1990); and, finally, (5) when imprisonment was imposed, offenders who were intimate with their victims were likely to receive lighter sentences (Erez & Tontodonato, 1990; Simon, 1996b). Other research, however, found that there were no differences in how cases involving intimate and non-intimate violence were treated at various stages of the criminal process. More specifically, this research demonstrated a lack of bias toward intimate violence at the following decision-making points: (1) pretrial dismissal (Myers, 1980); (2) charging (Myers, 1980; Adams, 1983); (3) plea bargaining (Myers & Hagan, 1979; Myers, 1981);

³ The findings in this section are based primarily on research conducted in the United States and, therefore, the criminal justice stages examined may be described differently.



(4) conviction (Myers, 1979); and (5) sentencing (Miethe, 1987; Myers, 1979; Myers, 1980; Albonetti, 1991; Simon, 1996a).

2.3 Summary

A review of the research, then, demonstrates that the findings to date do not allow for a definitive statement regarding the extent to which the relationship between an accused and his/her victim may affect criminal justice outcomes. However, few studies have focused exclusively on the victim-accused relationship as the key variable of interest (see exceptions Miethe, 1987; Simon, 1996a, 1996b). Rather the majority of studies have incorporated relationship type as a control variable in the examination of other factors that may influence the criminal processing of accused persons (e.g. gender, age, race/ethnicity) whereas other research has included the victim-accused relationship as one of a multitude of factors being examined. There has also been a tendency in this research to include ‘intimate partners’ in a broader intimate category with other family members and friends. This has precluded the examination of potentially important relationship distinctions in criminal justice decision-making and, in particular, that of intimate partners compared to other types of relationships. Finally, no study has examined the effects of intimacy in criminal law over a significant period of time. In fact, the majority of research has examined time periods that are less than three years in duration and, primarily, from the mid-1970s – a time when the role of intimacy in criminal law first began to be vigorously challenged by feminist researchers. This represents a significant limitation because various legislative and policy initiatives in the past three decades have been specifically directed at changing the way in which criminal justice actors respond to intimate violence. Today, however, we still know little about whether and how the treatment of intimacy within the courts has been transformed as a result.

In an effort to address these issues within the Canadian context, Dawson (2003a, 2004) examined how the victim-accused relationship affected court outcomes in cases of homicide in one urban jurisdiction. For example, examining the total population of cases processed through the court in Toronto, Ontario from 1974 to 1996, Dawson (2004) found that those accused of killing intimates did appear to receive lighter sanctions during the earlier period of the study (1974-1984), but that this effect diminished somewhat over time so that, in the later period (1985-1996), cases involving intimates did not appear to be treated any differently than cases involving those who shared more distant relationships. Thus, it may be that during the past few decades – a time when there has been an increasing recognition that intimate violence is a serious social issue – a parallel trend has occurred in which intimate violence is being treated more seriously by the courts or, at least, being treated as seriously as other types of violent crime. While this research was not able to determine whether there is a direct relationship between the legislation and policy changes directed at intimate violence and the subsequent treatment of intimate violence by the courts, it does suggest that an association is possible and warrants further investigation.

With the introduction of Bill C-41 in 1996, an examination of the impact of legal and policy changes on the criminal justice processing of intimate violence is even more

pertinent. In response to reports by the Canadian Sentencing Commission and the Daubney Committee, Bill C-41 includes a statutory statement of the purpose and principles of sentencing found in section 718 of the *Criminal Code of Canada* (see Box 1).⁴

Box 1: s.718 *Criminal Code of Canada*

718.2 A court that imposes a sentence shall take into consideration the following principles:
(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing, ...
(ii) evidence that the offender, in committing the offence, abused the offender's spouse or common-law partner or child, ... shall be deemed to be aggravating circumstances; ..."

As part of this, it is now stipulated that evidence that an offender has abused a spouse, common-law partner or child should be considered an aggravating factor in sentencing. As such, it is important to examine the role played by intimacy in criminal justice decision-making in more recent years to capture the potential impact of these amendments.

⁴ The goal of this section is to provide judges with some guidelines about the primary purpose of sentencing and a list of some of the principles that should be used to decide on the punishment imposed.



3.0 The Present Study

This study builds upon earlier research by Dawson (2004) by examining the resolution of homicide cases in Toronto, Ontario, from 1997 to 2002. The collection of this more recent data allows for an examination of trends over time in court outcomes for one type of violent crime for a period of close to three decades – 1974 to 2002. The primary goal is to determine if intimate partner homicides are treated differently than non-intimate partner homicides and, if so, has this treatment varied over time. These are important research questions because the way in which the courts in Canada and other developed countries respond to intimate partner violence has been the subject of much debate in the past several decades. The next section outlines the advantages of using homicide as the unit of analysis in research on violence and criminal justice.

3.1 Homicide as one type of violent crime

Homicide as a unit of analysis has been criticized for being too narrow a crime category because a large number of closely related violent offences (e.g. assaults) are omitted (see Simon, 1996b). However, selecting homicide as a focus in criminal justice research offers a number of advantages, including primarily that unreported cases of homicide are assumed to be less common than unreported cases for any other violent crime category. For example, the majority of criminologists explain the enforcement of criminal law in terms of a ‘crime funnel’ (Gomme, 1998). From this perspective, all crime is potentially knowable, but most crime remains undetected: the ‘dark figure.’ As a result, the number of crimes committed is much higher than the number of cases in which a sentence is finally imposed (Roberts & Cole, 1999). There may be a number of reasons for this, not the least of which is that victims and witnesses often fail to report criminal activities to the authorities. As a result, only a small number of crimes come to the attention of criminal justice officials. Of the crimes that are reported, the majority of cases may never be prosecuted because they are funneled out at various stages of the criminal justice process. For example, some Canadian data indicate that only two to five percent of reported crimes result in a conviction and, consequently, in a sentencing hearing (Dutton, 1988; Roberts & Cole, 1999).

Official homicide statistics, however, are generally viewed as a reasonably reliable indicator of the actual number of killings that have taken place in a given year and of the characteristics of the individuals who commit them. One reason for this, as already noted, is that most homicides are reported to the police and, therefore, potential problems created by reporting bias are minimal. Moreover, compared to other reported crimes, homicides are generally investigated with particular thoroughness due to the severity of the offence, making available information more accurate and detailed. Finally, because of societal consensus about the gravity of homicide, the majority of perpetrators are prosecuted and punished to some degree.⁵

⁵ By focusing on criminal justice outcomes, various categories of homicide cases are excluded, including those that end in the death of the offender (often by suicide), cases in which no offender has been identified (i.e. unsolved cases) or cases in which a warrant for the arrest of an accused is still outstanding.

A final advantage of focusing on homicide as one type of violent crime is that cases are, in general, similar in offence seriousness and the degree of harm caused to the victim (i.e. a death has resulted from the crime). Using homicide as the unit of analysis controls, to some degree, for the type and severity of violence. There are situations, however, when one person kills another but the individual is never charged with, or convicted of, a homicide. This situation arises because there are two types of homicide: Culpable and non-culpable.⁶ In this study, only culpable homicides are examined. While focusing on culpable homicides does, on the surface, control for offence seriousness by keeping to a minimum the number of variables that differentiate among the types of homicide, the law does recognize that there are different degrees of culpable homicide. Within each of the categories of culpable homicide, variation in degree of harm and the degree of accused culpability still exists along a number of dimensions (see Box 2).

⁶ Non-culpable homicide or justifiable killings may include lethal acts by the military in wartime, by police officers and prison guards in the course of duty, by state executioners, and by persons in self-defence, under duress and so on. That is, non-culpable homicide is either accidental or the consequences of lawful activities (Grant et al., 1998) and, thus, not classified as a criminal offence.



Box 2: Culpable homicide and the law

Section 222(4) of the Criminal Code of Canada (the Code) includes three types of culpable homicide: Murder, manslaughter and infanticide. The distinction among the three offences is important because each is subject to different penalties. With the abolition of capital punishment in 1976 (Bill C-105), murder now may be first or second degree. First-degree murder involves one or more of the following components: (1) It is planned and deliberate; (2) It involves the death of a police officer(s), a custodian(s), or prison personnel while on duty; or (3) It is committed during the commission of certain other criminal acts (e.g. hijacking, kidnapping, forcible confinement, criminal harassment, or sexual assault). Homicides that do not meet these requirements are classified as second-degree murder. While the line separating first- from second-degree murder is often obscure (Boyd, 1988), what is usually at issue is the degree of planning and deliberation undertaken by the accused prior to the killing (Grant et al., 1998).

In Canada, first-degree murder, as a proportion of all culpable homicide charges laid by police, increased between 1977 and 1990, but has since leveled off, representing about half of all reported homicides (52 percent) in 2002 (CCJS, 2003a). Conversely, homicides classified by police as second-degree murder have decreased during the same period and currently represent about one-third (37 percent) of all homicides (CCJS, 2003a). Traditionally, however, only about five percent of those charged with culpable homicide have been subsequently convicted of first-degree murder and approximately 30 percent have been found guilty of second-degree murder (Boyd, 1988). Section 235 of the *Code* stipulates that everyone convicted of murder, both first- and second-degree, will be sentenced to life imprisonment. However, a conviction of first-degree murder carries a mandatory minimum 25-year parole ineligibility period whereas this period may range from 10 to 25 years for a second-degree murder conviction.

Culpable homicide that is not murder may be manslaughter (s.234 *CCC*). Manslaughter is “culpable homicide that would otherwise be murder” except that “the person who committed it did so in the heat of passion caused by sudden provocation” (s. 232(1) *CCC*). A wrongful act or insult that is of such a nature as to be sufficient to deprive an ordinary person of the power of self-control is sufficient provocation to reduce a charge to manslaughter if the accused acted on it “on the sudden and before there was time for his passion to cool (s. 232(2) *CCC*). In general, Canadian criminal law has used the mental element as the crucial factor in distinguishing between murder and manslaughter. As a result, the decision about the degree of accused culpability or blameworthiness has not only been influenced by the presence of provocation, but also by other factors such as intoxication (Grant et al., 1998). Despite annual fluctuations, about 10 percent of all culpable homicides are initially classified by police as manslaughter (CCJS, 2003a). Traditionally, however, more than 60 percent of all convictions for homicide are for manslaughter (Boyd, 1988). Manslaughter is subject to a maximum of life imprisonment, but carries no mandatory minimum sentence.

The last type of culpable homicide under the Code is infanticide. This offence refers to the killing, whether by willful act or omission, of a newborn child by the mother. The child must be under one year of age and the mother must not have fully recovered from the effects of childbirth (i.e. mental disturbances or postpartum disorders that arise as a consequence of giving birth). Infanticide is punishable by a maximum of five years imprisonment. The most recent figures indicate that about one percent of all culpable homicides are classified as infanticide and this has remained relatively stable over time (CCJS, 2003a).

3.2 Data sources

Data analyzed in this report were collected in two different stages. Data on homicides from 1997 to 2002 were collected as part of this research project whereas data on homicides from 1974 to 1996 were collected for an earlier project.⁷ By merging these two data sets, this sample includes all homicides known to and recorded by legal and medical officials in Toronto and resolved through the criminal justice system between and including 1974 to 2002 – a period of almost 30 years. Crown Attorney files were the primary source of information because the research focus was the criminal justice processing of and outcomes in homicide cases.⁸ A standardized coding sheet was used (see coding sheet, Appendix A). Information was collected on about 100 variables for each case,⁹ including characteristics of the accused and the victim, the circumstances surrounding the homicide incident, and the criminal justice process. These variables will be discussed in more detail below.

From 1974 through 2002, a total of 1,612 homicides were recorded in the City of Toronto.¹⁰ Of these, 288 remain unsolved; that is, no accused has yet to be identified. For the 1,324 solved homicides, 1,416 accused persons were identified of which 1,137 were charged for their crimes and processed through the adult criminal court system. In the remaining 279 cases, the accused committed suicide immediately after the homicide, the case was cleared otherwise (e.g. accused persons died or were killed before case was resolved), warrants were still outstanding for arrest or the case was still before the court.¹¹ Among the group of 1,137 accused persons, Table 3.1 shows that 230 (20 percent) were charged with killing an intimate partner and 907 (80 percent) were charged with killing victims with whom they shared more distant relationships. These numbers are consistent with the most recent national figures that indicate approximately one out of every five homicides involve intimate partners (CCJS, 2003a). Focusing on this group of accused persons, this study examines patterns in criminal justice responses to homicide in one urban jurisdiction, comparing outcomes for those accused of killing intimate partners to outcomes for those accused of killing victims with whom they shared more distant relationships.

⁷ For more detail on the earlier project, see Dawson (2004).

⁸ Data were also collected from records kept by the Office of the Chief Coroner of Ontario for homicide cases that occurred between and including 1991 and 1996 and for some cases that occurred between 1997 and 2002. Finally, special thanks to Rosemary Gartner and Bill McCarthy for making some of the data used in the earlier project available to the author.

⁹ Each case represents the processing of one accused. Because co-accused may be tried separately for various reasons, a single homicide may result in two or more cases.

¹⁰ Figures provided by Toronto Police Service, Homicide Squad, and the Office of the Chief Coroner of Ontario.

¹¹ In a small number of cases (3 percent), no outcome could be identified.



TABLE 3.1
ACCUSED PERSONS IN TORONTO HOMICIDE CASES, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002
(N=1,137)

| Type of accused | Total Number | Total Percent |
|--------------------------------------------------|--------------|---------------|
| | N | % |
| Accused persons in intimate partner homicide | 230 | 20 |
| Accused persons in non-intimate partner homicide | 907 | 80 |
| | | |
| All accused persons | 1,137 | 100 |

3.3 Limitations

Because the focus in this study is on a single jurisdiction, it is not possible to explore variation across jurisdictions within the same province or variation in criminal justice outcomes across provinces. Research has shown that the treatment of individuals in a particular court may be influenced by the political, social and organizational context of that court (see Dixon, 1995, for a more detailed discussion). Therefore, the findings from this study cannot be generalized to Ontario or Canada because it is not known if the findings reported here will hold in other courts. However, during the past decade, Toronto has accounted for approximately one-tenth of the country's homicides and about one-third of all homicides in the province of Ontario (see Appendix B). Thus, it is expected that some of the general patterns found in this study may reflect, to some degree, provincial and national trends.

A second limitation stems from the focus on homicide cases only. Homicide is frequently used in research as a reliable indicator of or barometer for trends and patterns in non-lethal forms of violence (Gabor et al., 2002). However, when examining criminal justice responses to violence, homicide cases may not be as reliable or as valid an indicator for measuring responses to other types of criminal non-lethal violence. One reason for this is that homicides differ from all other types of violence because the victim is dead when the case enters the criminal justice system. Thus, it may be that other factors come into play when the victim is present to testify in court or when the victim's willingness to participate in the criminal process is an issue for criminal justice actors.

Finally, while this study examines several criminal justice outcomes in an attempt to capture the sequential nature of criminal justice decision-making, a number of earlier decision outcomes were not available for analysis. For example, decisions made by police officers early in the process may have implications for later decisions by court actors, particularly prosecutors. While it may be that the effect of these decisions will be less evident in cases of homicide because charges are usually always laid (where an accused has been identified) and cases are generally prosecuted, examining the effect of police decisions is crucial for other types of violent crime. The stages of the criminal process that are examined in this study are described below, followed by a discussion of the key independent and control variables.

3.4 Dependent variables: Decision-making stages in the criminal process

Sentencing is considered by many to be the most important stage in the criminal justice process. However, research has begun to question the validity of studies that focus exclusively on sentencing decisions and ignore pre-sentence decision-making stages (Bernstein et al., 1977a, 1977b, 1979; Hagan, 1974; Miethe & Moore, 1986; Petersilia, 1983; Schur, 1971; Swigert & Farrell, 1977). A primary concern has been the failure to consider the possible effects of earlier decisions on later outcomes (Greenberg, 1977). For example, an accused person who pleads guilty in exchange for a charge reduction may receive a lighter sentence than an accused person who does not plead guilty, but is subsequently found guilty at trial and sentenced accordingly. As a result, studies that do not examine whether a case was resolved at trial or by guilty plea may not capture the effect of this earlier decision on the length of sentence ultimately imposed. In addition, decisions made at earlier stages of the criminal process should be examined as important decision-making stages in and of themselves because the sequential nature of the criminal process means different criminal justice actors make decisions at different stages. For instance, prosecutors are initially responsible for deciding whether a case is resolved by trial or by guilty plea. The specific concerns of a prosecutor at this stage of the process may be substantively different than judicial concerns at sentencing. Therefore, examining the types of cases that reach conviction, the types of accused persons convicted by trial, or the types of cases resolved by guilty plea are all interesting questions worthy of examination.

In response to these issues, this study focuses on five key stages in the criminal court process that capture eight different decisions. The outcomes are: (1) initial prosecution charge; (2) mode of conviction; (3) verdict at trial; (4) type of acquittal; (5) overall conviction; (6) severity of conviction; (7) type of sentence; and, finally, (8) length of sentence.¹² Table 3.2 shows the coding and frequency distributions for all eight outcomes that are discussed separately below.

¹² While there may be some overlap among these eight outcomes, each represents a distinct decision-making stage worthy of examination. One important stage that is not examined here, however, because of data limitations is whether the accused was detained or released on bail. Because of the seriousness of the charges examined here, it is expected that most accused persons were remanded to custody and, where information was available, that proved to be the case. However, this information was not consistently available in the earlier data and so could not be included in the analysis. Previous research has shown that bail decisions may also affect later court outcomes and, thus, future research should include this decision-making stage.



TABLE 3.2
CODING AND FREQUENCY DISTRIBUTIONS FOR EIGHT CRIMINAL JUSTICE OUTCOMES, TOTAL SAMPLE,
TORONTO, ONTARIO, 1974-2002 (N=1,137)^a

| Variable | Coding | Frequency | Percentage |
|--------------------------------------------------------|--------------------------------------|------------|------------|
| Y ₁ Initial prosecution charge (N=1,137) | 0 Other charges | 718 | 63 |
| | 1 First-degree murder charge | 419 | 37 |
| Y ₂ Mode of conviction (N=1,130) | 0 Guilty plea | 476 | 42 |
| | 1 Case sent to trial | 654 | 58 |
| Y ₃ Verdict at trial (N=654) | 0 Acquitted at trial | 259 | 40 |
| | 1 Found guilty at trial | 395 | 60 |
| Y ₄ Type of acquittal (N=259) | 0 Found 'not guilty' | 163 | 63 |
| | 1 Found 'not criminally responsible' | 96 | 37 |
| Y ₅ Overall conviction (N=1,137) | 0 Acquitted | 271 | 24 |
| | 1 Convicted | 866 | 76 |
| Y ₆ Severity of conviction (N=866) | 0 Other conviction | 525 | 61 |
| | 1 Murder conviction | 341 | 39 |
| Y ₇ Type of sentence (N=866) | 0 Provincial (2 years less one day) | 151 | 17 |
| | 1 Federal (2 years plus one day) | 715 | 83 |
| Y ₈ Length of Sentence (N=866) | Interval level | 9.20 years | |

^a As shown in parentheses for each outcome, there is variation in the sample size at various stages of the process because some accused persons may be selected out of the process depending on the outcome at the previous stage.

Initial prosecution charge. The first dependent variable captures the severity of the prosecution charge. This is an important decision point for an accused because the seriousness of the initial charge, under most circumstances, will be an important determinant of the ultimate sentence received (see Brereton & Casper, 1981-82). That is, the penalty structure available to the sentencing judge is contingent upon the conviction charge and the seriousness of the conviction charge is indirectly contingent on the seriousness of the initial charge (Brereton & Casper, 1981-82). For example, a first-degree murder charge may be reduced to second-degree murder upon conviction, but an accused charged with second-degree murder cannot be convicted of first-degree murder at trial. Moreover, the amount of harm caused by an accused is itself an important consideration in sentencing decisions and this is reflected, in part, by the initial charge laid (Brereton & Casper, 1981-82). However, some studies of police and prosecutorial decision-making suggest that charging practices in homicide cases may reflect a number of subjective, political considerations (Higgingbottom & Zamble, 1988; Mather, 1979; Williams & Rodeheaver, 1991). That is, police and prosecutors may 'charge up' to demonstrate that they are not being too lenient, to allow room for possible plea negotiations, or to allow for the possibility that evidence may be uncovered during the investigation that supports a more serious offence such as evidence of malice aforethought and/or premeditation

The data used in this analysis show that first- or second-degree murder charges were initially laid in 91 percent of the cases. As a result, because the majority of charges are for murder, a

dichotomous measure captures the severity of the charge laid by the prosecution, distinguishing between those charged with first-degree murder – the most serious charge possible in cases of homicide – and those charged with less serious offences, including primarily second-degree murder. As discussed, above, the primary justification for a first-degree murder charge is the presence of planning and deliberation (Grant et al., 1998). Table 3.2 indicates that first-degree murder charges were laid in 37 percent of the Toronto cases. Another 54 percent of accused persons were charged with second-degree murder and approximately eight percent were charged with manslaughter.

Mode of conviction. All accused persons have a constitutionally guaranteed right to a trial by judge or jury. However, most criminal charges in Canada are disposed of by a guilty plea rather than at trial (Ruby, 1999). While guilty pleas may not be as frequent in homicide cases as they are for other types of violent or non-violent crime, they do represent a significant proportion of cases that result in convictions. A guilty plea represents an admission by the accused that he or she committed the offence they are charged with and that they consent to a conviction being entered without a trial. A plea of guilty can occur in two ways. First, the prosecution may charge an accused with a particular offence related to the homicide and the accused pleads guilty to that offence, often with the expectation of a reduced sentence. On the other hand, as part of a plea bargain, the accused may plead not guilty to the offence he or she is initially charged with, but guilty to a lesser charge. For example, an accused charged with first-degree murder may plead not guilty to this offence, but guilty to the lesser offence of second-degree murder. Again, it may often be the case that an accused hopes to reduce the number of years of imprisonment that may be imposed before parole eligibility by pleading guilty. To capture mode of conviction, a dichotomous measure distinguishes between cases that proceeded to trial and those that were resolved through a guilty plea. Table 3.2 shows that 58 percent of the accused persons in this sample had their case resolved at trial.¹³ The remaining cases (42 percent) were resolved through guilty pleas.

Verdict at trial. Some research has shown that when cases of violent crime are resolved by trial, judges are less likely to convict if the accused allegedly victimized a stranger whereas juries are more likely to convict if the crime involved strangers (Myers, 1981). Beyond this, research is sparse on how the victim-accused relationship may affect an accused person's verdict at trial. To examine this outcome, a variable measures whether the accused was found guilty or acquitted at trial.¹⁴ In this sample, 60 percent of the cases that were sent to trial resulted in a verdict of 'guilty' for the accused.

Type of acquittal. There are two ways that an accused may be acquitted: By receiving a 'not guilty' verdict at trial or by being found 'not criminally responsible by reason of mental disorder.' In the first scenario, an accused is acquitted of the charge(s) before the court. With respect to the second type of acquittal, in the vast majority of cases, the accused admits that he or

¹³ It is possible that during a trial, the accused will change his/her plea from 'not guilty' to 'guilty.' These cases have been coded as cases resolved through guilty pleas because no verdict resulted from the trial. Seven cases in which the charges were dismissed prior to the accused person's plea were not included at this stage of the analysis.

¹⁴ The acquittal category includes cases in which the charges were dismissed or stayed as well as those accused persons who were found not criminally responsible by reason of mental disorder because, from a legal perspective, this is a type of acquittal. Information was not consistently available as to the type of trial so it was not possible to distinguish between jury and non-jury trials.



she committed the crime but, because they did not understand the nature and quality of their act, they are found ‘not criminally responsible by reason of mental disorder’ (prior to 1992, the verdict was ‘not guilty by reason of insanity’).¹⁵ To examine whether those persons who killed intimate partners were more likely to be acquitted due to mental disorder, a dependent variable distinguishes between accused persons who were found ‘not guilty’ and those who were found ‘not criminally responsible.’ In the Toronto data, 37 percent of those acquitted were found ‘not criminally responsible by reason of mental disorder.’

Overall conviction. Regardless of whether a case is resolved at trial or by guilty plea, there may be variation in the overall likelihood of conviction. The fifth dependent variable represents an overall measure that distinguishes between those who were convicted for their crimes (including those convicted by trial and by guilty plea) and those who were acquitted (including those found not criminally responsible). In the Toronto data, three-quarters (76 percent) of those accused were convicted for their crimes.

Severity of conviction. An accused person’s conviction should demonstrate the degree of harm or damage caused by the crime as well as their perceived culpability. The distinction between a murder and a manslaughter conviction is of great significance for an accused in Canada because murder carries a mandatory penalty of life imprisonment whereas manslaughter convictions carry no minimum mandatory sentence (Grant et al., 1998). Generally, as already noted, murder is distinguished from manslaughter by the existence of a specific intent to cause death or serious bodily harm likely to cause death (s.229 CCC) on the part of the accused. Thus, the presence of certain extraneous or mitigating factors such as provocation (see specifically s.232(2) CCC), intoxication or diminished responsibility may reduce an offence from murder to manslaughter. To determine whether intimacy affects the severity of conviction, a variable measures whether the accused was convicted of murder (either first- or second-degree) or convicted of a less serious charge (primarily manslaughter). Table 3.2 shows that 39 percent of the cases resulted in a conviction of either first- or second-degree murder.¹⁶

Type of sentence. Prior literature suggests that the sentencing of an offender involves two separate decisions. The first is whether to imprison the offender and, if imprisonment is imposed, the second decision is what sentence length is appropriate for the crime. With respect to type of sentence, because homicide is considered to be a serious offence, very few cases that lead to a conviction do not result in a term of imprisonment. However, in Canada, an offender can be sentenced either to a provincial term of imprisonment (two years less a day) or to a federal term of imprisonment (two years or more). To determine whether there is an association between the type of victim-accused relationship and the type of sentence, this dependent variable captures

¹⁵ Again, a verdict of NCRM is not synonymous with a finding of guilt; rather, the verdict means that the court has ruled that the accused was not criminally responsible for his or her actions at the time the offence was committed. At this point, the court may either give a disposition or defer action to a review board. However, if either the Crown attorney or the accused apply for the court to give the disposition, and if able to do so, the court must comply. One of three options is available to the court: Detention in-hospital, conditional discharge, or absolute discharge (CCJS, 2003b).

¹⁶ Nine percent were convicted of first-degree murder and 30 percent were convicted of second-degree murder. Of the remaining 61 percent of those who were convicted, 54 percent were convicted of manslaughter. Therefore, the primary comparison here is between those convicted of murder (including both first- and second-degree) and those convicted of manslaughter.

whether an offender was sentenced to a provincial or federal institution. In the Toronto sample, as expected given the seriousness of the offence, 83 percent of the offenders were sentenced to a federal term of imprisonment.

Length of sentence. The length of time an offender is sentenced to serve before parole eligibility is based, in part, on materials presented to the court after guilt has been determined (e.g. pre-sentence reports that describe, for example, their criminal history). Sentencing decisions are also dependent, however, on the type of conviction imposed and, within each offence category, the range of possible sentences that are available. For example, offenders convicted of first-degree murder in Canada receive an automatic life sentence with no chance of parole for 25 years – the longest possible term of imprisonment for a homicide in this country. In contrast, while a second-degree murder conviction also carries a mandatory life sentence, the period of parole ineligibility may range from 10 to 25 years. Finally, there is no minimum mandatory sentence for manslaughter convictions. Thus, the final dependent variable is a continuous measure that captures the number of years an offender has been sentenced to serve before parole eligibility with values ranging from zero up to and including 25 years. During the study period, the average term of imprisonment before parole eligibility in the Toronto court was approximately nine years. Of those convicted of manslaughter, the average sentence was 5.5 years and, of those convicted of second-degree murder for which the minimum mandatory sentence is 10 years, the average sentence was 12.5 years. All those convicted of first-degree murder are sentenced to 25 years before parole eligibility.

3.5 Key independent variables: Intimacy, time, and gender

Intimacy. As noted above, of all social relationships, there may be none more intense than that of intimate partners because of the presence of sexual intimacy and physical proximity (Silverman & Kennedy, 1993). To capture the effect of intimacy, the first key independent variable is a dichotomous measure that distinguishes between intimate partner and non-intimate partner homicides.¹⁷ The intimate partner category includes both current and former legal spouses, common-law partners and dating couples (i.e. boyfriends and girlfriends).¹⁸ The non-intimate partner category includes family members (not including spouses), friends, acquaintances and strangers. In the Toronto sample, 20 percent of the cases involved killings between intimate partners (see Table 3.3 for coding and descriptive information for all independent and control variables).

¹⁷ The relationship between the accused and the victim was determined by examining information from a number of sources as noted above. Where information conflicted on the relationship type among these sources, the most frequently mentioned relationship type was used. Thus, the researcher did not rely solely on one source of information in documenting this variable.

¹⁸ There were 11 cases in which the victim and the accused were identified as male same-sex intimate partners. This number was too small for a separate analysis of same-sex intimate partner homicides. There were no cases identified as female same-sex intimate partner homicide.



TABLE 3.3
DESCRIPTION OF INDEPENDENT AND CONTROL VARIABLES FOR HOMICIDE CASES, TOTAL SAMPLE,
TORONTO, ONTARIO, 1974-2002

| Variable | Description/Coding | Mean | (S.D.) |
|---------------------------------------|------------------------------------------------|------|--------|
| <i>Key Independent Variables</i> | | | |
| <i>Victim-accused relationship</i> | Non-intimate partner = 0; Intimate partner = 1 | .20 | (.40) |
| <i>Year case entered court</i> | Time period: 1974 to 1983 = 1; other = 0 | .38 | (.47) |
| | Time period: 1984 to 1996 = 1; other = 0 | .51 | (.49) |
| | Time period: 1997 to 2002 = 1; other = 0 | .11 | (.44) |
| <i>Gender of accused</i> | Female = 0; Male = 1 | .89 | (.31) |
| <i>Gender of victim</i> | Female = 0; Male = 1 | .71 | (.45) |
| <i>Control Variables</i> | | | |
| Legal variables | | | |
| <i>Criminal history of accused</i> | Accused had non-violent record (0, 1) | .43 | (.49) |
| | Accused had violent record (0, 1) | .13 | (.34) |
| <i>Role of accused in homicide</i> | Secondary = 0; Primary = 1 | .85 | (.36) |
| <i>Number of accused</i> | One accused = 0; Multiple accused = 1 | .16 | (.37) |
| <i>Number of victims</i> | One victim = 0; Multiple victims = 1 | .04 | (.20) |
| <i>Case resolved at trial</i> | Guilty plea = 0; Trial = 0 | .58 | (.49) |
| <i>Charge seriousness</i> | Interval (Least to most serious, 1 through 3) | 2.28 | (.62) |
| <i>Conviction seriousness</i> | Interval (Least to most serious, 1 through 3) | 2.07 | (.89) |
| Characteristics of the accused | | | |
| <i>Race/ethnicity of accused</i> | Non-white = 0; White = 1 | .56 | (.50) |
| <i>Age of accused</i> | Age 18-24 (0, 1) | .35 | (.48) |
| | Age 25-34 (0, 1) | .36 | (.48) |
| | Age 35-44 (0, 1) | .17 | (.38) |
| | Age 45-54 (0, 1) | .08 | (.27) |
| | Age 55 and up (0, 1) | .03 | (.18) |
| | Mean age of accused | | .31 |
| <i>Accused employment status</i> | Unemployed = 0; Employed = 1 | .30 | (.46) |
| <i>Accused marital status</i> | Not married = 0; Married = 1 | .41 | (.49) |
| <i>Accused psychiatric history</i> | No treatment = 0; Treatment = 1 | .10 | (.30) |

TABLE 3.3
DESCRIPTION OF INDEPENDENT AND CONTROL VARIABLES FOR HOMICIDE CASES, TOTAL SAMPLE,
TORONTO, ONTARIO, 1974-2002 (CONTINUED)

| Variable | Description/Coding | Mean | (S.D.) |
|----------------------------------------|--------------------------------------------------|------|--------|
| Characteristics of the victim | | | |
| Victim's ethnicity | Non-white = 0; White = 1 | .58 | (.49) |
| Victim's age | Age newborn-17 (0, 1) | .09 | (.29) |
| | Age 18-24 (0, 1) | .19 | (.39) |
| | Age 25-34 (0, 1) | .25 | (.43) |
| | Age 35-44 (0, 1) | .22 | (.41) |
| | Age 45-54 (0, 1) | .12 | (.33) |
| | Age 55 and up (0, 1) | .13 | (.33) |
| | Mean age of victim | | 35 |
| Victim's employment status | Unemployed = 0; Employed = 1 | .40 | (.49) |
| Victim's marital status | Not married = 0; Married = 1 | .45 | (.50) |
| Victim's psychiatric history | No treatment = 0; Treatment = 1 | .06 | (.23) |
| Victim's criminal history | No record = 0; Violent or non-violent record = 1 | .30 | (.46) |
| <i>Characteristics of the incident</i> | | | |
| Weapon use | No gun used = 0; Gun used = 1 | .24 | (.43) |
| Location of killing | Private = 0; Public = 1 | .36 | (.48) |
| Accused drinking/using drugs | No alcohol/drugs = 0; Using alcohol/drugs = 1 | .55 | (.50) |
| Victim drinking/using drugs | No alcohol/drugs = 0; Using alcohol/drugs = 1 | .45 | (.50) |

Time. Since the early 1970s, there has been enormous growth in the amount of public and professional attention given to violence within the family, but more particularly, to the problem of violence against women within intimate relationships. Work by feminists and grassroots organizations have drawn the attention of both members of the public and the legal profession to what was traditionally perceived to be a private family problem not appropriate for legal intervention (Dobash & Dobash, 1979; Schneider, 1994). As a result, in the past several decades, social and legal reforms have begun to target intimate violence as a public, rather than a private, concern. However, as noted above, there has been little systematic examination of the association between intimacy and criminal law over time. This represents a gap in the literature given that the amendments to or the implementation of various legislative policies in recent years may have lead to or represent changes in the attitudes of criminal justice officials and members of the public, generally, toward violence within intimate relationships. In other words, it is reasonable to expect that this heightened awareness of or sensitivity to intimate violence may influence the way in which criminal justice officials respond to some types of violent crime (Mitchell, 1991; Roberts, 1992). While this analysis cannot test for a direct relationship between changes in law and criminal justice responses to intimate violence, it is possible to examine whether such changes have occurred in tandem, documenting a possible association that can set the stage for future research. As a result, the second key independent variable captures the year in which a homicide case entered the court system, distinguishing between three separate time periods as described below.

The first key changes in legislation and/or policy were introduced in the early 1980s with important continent-wide reforms that began to transform the way in which the criminal justice system responded to cases of intimate partner violence. From 1983 to 1986, Offices of the



Attorney General and the Solicitor General adopted policy directives that required police and Crown prosecutors to charge and prosecute all incidents of spousal abuse where there were reasonable and probable grounds to believe that an offence had been committed. These policies are often described as “pro-charging” and “pro-prosecution” policies; nonetheless, they are, in fact, the applicable standards for all criminal conduct. Their specific application, however, to cases of spousal abuse played a key role in highlighting the critical distinction between the treatment of spousal abuse by the criminal justice system as a “criminal matter” and its historical treatment of spousal abuse as a “private matter.” Following the implementation of pro-charging policies, for example, police officers were required to make an arrest when there was “reasonable or probable grounds” to believe an offence had been committed. Prior to this, a more rigorous standard existed that stipulated an officer had to witness the offence or the resulting injuries before charges could be laid. This policy change had a significant effect on the number of common assault charges laid in incidents of spousal violence in this country and served as an impetus for change in both public and professional attitudes toward intimate violence. Additional legislative and/or policy changes targeting intimate violence occurred during the 1990s. The most relevant for the purposes of this study and to the treatment of intimate violence in the courts was Bill C-41 introduced in 1996. As noted above, Bill C-41 and the subsequent amendments (s.718.2 CCC) state that the abuse of a spouse or the abuse of a position of trust should be considered aggravating factors in sentencing an accused.

Based on the above, a three-category variable distinguishes among the distinct social and legal environments that were created by various changes in legislation and policy over a period of three decades. The first time period captures cases that entered the criminal justice system between and including 1974 to 1983 – the 10-year period prior to and including the introduction of pro-charging and pro-prosecution policies in Canada. The second 13-year time period – 1984 to 1996 – captures those cases that entered the court during the period that came after the implementation of pro-charging and pro-prosecution policies and up to the implementation of Bill C-41 in 1996. The final six-year period – 1997 to 2002 – captures those cases that came after the introduction of Bill C-41 and the related amendments to the criminal code. In the Toronto sample, Table 3.3 shows that 38 percent of the cases were dealt with during the early period of the study, 51 percent during the second period and 11 percent in the third or most recent period.¹⁹

Gender. While the role of intimacy in criminal law is the key focus of this study, intimacy and gender are intricately linked in crimes of interpersonal violence and so the separate and combined effects of the gender of the accused and the victim are also examined. A fairly persistent finding in sentencing research is that adult female offenders are treated more leniently than adult male offenders (see reviews, Bickle & Peterson, 1991; Daly & Bordt, 1995; Odubekun, 1992; Steffensmeier et al., 1993). In contrast, gender differences were found to be less common in research that looked at case dismissals and convictions (Nagel & Hagan, 1982).

¹⁹ Various factors may contribute to the lower number of cases in the third period beyond the fact that it represents a shorter period of time. For instance, the rate of homicide has decreased in recent years while the number of unsolved cases has fluctuated (CCJS, 2003a). Both of these trends may contribute to reductions in the number of cases that are dealt with by the courts. In addition, open cases (i.e. those not yet resolved in the courts) were not included in this analysis. Because it takes anywhere from one to two years on average for a case to be processed (national average for homicide cases is 336 days; CCJS, 2002), a number of homicides that entered the courts in the latter part of 2001 and in 2002 were still open when data were being collected. Therefore, only those cases that had been resolved by January 2004 were included in this study.

However, while previous research on criminal justice decision-making has controlled for gender of the accused, isolating the distinctive effects of intimacy requires that the gender of *both* the accused and the victim be taken into account (Felson et al., 1999). For example, females primarily victimize and are victimized by family members, especially male intimate partners, whereas males primarily victimize and are victimized by other males, strangers or otherwise (Browne & Williams, 1989; Reiss & Roth, 1993). In addition, the gender of the victim has also been shown to be associated with criminal justice outcomes in homicide (Gross & Mauro, 1989; Rapaport, 1991) and with the severity of conviction (Farrell & Swigert, 1986; Williams, 1976). To capture possible gender differences in punishment, a dummy variable measures whether the accused was male or female. Consistent with previous research on gender differences in violent crime, males represent the majority of those accused (89 percent) in the Toronto sample. A variable also captures whether the victim was male or female and, in the Toronto sample, slightly more than 70 percent of the victims were male.

3.6 Control variables: Do other factors play a role?

Research has shown that intimate partner homicides are distinct in some ways from non-intimate partner homicides (Silverman & Kennedy, 1993). Therefore, if accused persons are treated differently based on the type of relationship they shared with their victims, it may be that such treatment is warranted. In other words, if lighter sanctions appear to be evident in cases of intimate partner homicide, it may not be the *nature* of the relationship itself that leads to different outcomes; rather it may be the characteristics of the homicide and/or the characteristics of those involved that justify different court outcomes. To capture this possibility, this section describes a number of legal and extra-legal factors that research has shown are associated with criminal justice outcomes in cases of homicide and other violent crime that, in turn, may also be associated with the type of victim-accused relationship. The variables are grouped into two categories: (1) legal variables; and (2) extra-legal variables, including characteristics of the accused, characteristics of the victim, and characteristics of the homicide incident. These variables are described in more detail below (see Table 3.3 for coding and descriptive information).



Legal variables

A number of legal variables are included in the analyses:²⁰ Prior criminal record of the accused, the role of the accused in the homicide, the number of accused involved in the homicide, the number of counts of homicide the accused was charged with (i.e. number of victims), the initial prosecution charge, the mode of conviction and, finally, the severity of conviction.²¹

Criminal record. The criminal history of the accused is captured using a three-category variable that distinguishes among those who had no prior record, those who had a non-violent record, and those who had a violent record. Drawing from previous research, it is expected that the existence of a prior criminal record will significantly affect the severity of the sentence (see Blumstein et al., 1983; Hagan & Bumiller, 1983; Klepper et al., 1983; Kruttschnitt, 1982). In addition, it may also have some effect on early decisions such as initial charge and mode of conviction. In the Toronto sample, 43 percent of the accused had a prior record for non-violent offences whereas 13 percent had a prior record for violent offences.

Number and role of those involved. The next set of legal variables pertains to the role of the accused and the number of accused persons and victims involved in the homicide. First, research has shown that the role of the accused may mitigate perceived blameworthiness if it was determined that he/she was a follower in the incident rather than a leader or organizer (Steffensmeier et al., 1998). And, even though an individual who aids and abets a homicide is legally indistinguishable from the primary accused, their relative degree of involvement in the offence may be important in determining the length of sentence (Grant et al., 1998). For example, judges may impose a shorter period of parole ineligibility if the role of the accused was not that of the leader. The role of the accused may also be relevant at earlier decision points in the system because prosecutors, when charging and negotiating pleas, as well as judges and juries at trial, may perceive an accused who played a minimal role, or at least a less crucial role in the killing, to be less culpable for the crime. To capture this, a dichotomous measure distinguishes between those who were the primary and those who were the secondary offender(s). The majority of the accused were primary offenders (85 percent) because, as documented next, the majority of homicides involved single offenders and single victims.

The next two legal variables capture the number of accused persons and the number of victims in each homicide. Research has shown that when more than one accused is involved in a homicide and/or more than one victim is killed, more severe criminal justice responses result (Black, 1976;

²⁰ Information was not consistently available for a number of other relevant legal variables including evidence of premeditation and/or victim provocation. The implications of this are discussed in the discussion/conclusion section, including possible directions for future research and potential research initiatives that may address such gaps. In addition, two other legal factors found to be important in previous research were not included here: Type of legal representation (e.g. self-representation, court-appointed counsel, or private counsel) and the judge that presided over sentencing. With respect to the former, it was not possible to determine type of legal representation from the files. With respect to the latter, data were collected on the judge who presided in each case, however, during the study period, more than 100 judges handed down sentences and, therefore, no meaningful breakdown was possible with the exception of the gender of the judge. However, the distribution of gender was too skewed for meaningful interpretation (i.e. only five per cent of the judges were female).

²¹ The last three legal variables are also dependent variables, representing earlier stages in the criminal justice process. However, because of the sequential nature of criminal justice decision-making, it is important to control for the effects of early decisions on later outcomes and so they become control variables in later analyses.

Huang et al., 1996; Myers, 1980). For example, some research has shown that the seriousness of the prosecution charge increases and the probability of a trial increases when there are multiple victims (Myers, 1980). As such, while a sentence for first-degree murder cannot exceed 25 years, where sentencing discretion is possible (e.g. in second-degree murder cases), judges may increase the parole ineligibility period because the case involved multiple victims. Dichotomous variables indicate whether there were multiple accused persons and/or multiple victims in each case. In this sample, 16 percent of the homicides involved more than one accused and four percent of the cases involved more than one victim.

Outcomes at earlier stages. The remaining three legal variables are dependent variables that become controls at later stages in the court process in response to research that has shown that the effect of early decisions on later outcomes needs to be considered to adequately understand the criminal justice process. For example, while research is contradictory (Brerton & Casper, 1981-82; LaFree, 1985; Nardulli et al., 1988), there is a common belief that guilty pleas or plea bargains often result in charge reductions and/or lighter sentences (Mather, 1979; Nardulli, 1979; Neubauer, 1974; Newman, 1966; Uhlman & Walker, 1979; Vetri, 1964). One reason for this belief is that guilty pleas are often entered for the sole purpose of obtaining a charge reduction. Moreover, it is commonly assumed that offenders who accommodate the system by pleading guilty and saving the expense of a trial are often rewarded with lighter sentences (Dawson, 1969; Rosett & Cressey, 1976; Ruby, 1999). However, it has also been argued that the initial rewards of a guilty plea at one stage of the process, such as a reduced charge, may cancel out any further rewards at later stages, such as sentencing (Eisenstein & Jacob, 1977; Smith, 1986). Similarly, increases in the severity of the charge and the conviction may have an impact on later outcomes. For example, the severity of the initial charge may increase the likelihood that a case will go to trial, that the accused will be found guilty at trial, or that he/she will be convicted of murder. Thus, where applicable, control variables are used to capture decision outcomes at early stages when predicting outcomes at later stages. Mode of conviction is included as a dichotomous measure that distinguishes between cases that went to trial and those that did not while severity of initial prosecution charge and severity of conviction are included as interval-level variables.

Characteristics of the accused

Research on punishment disparity has also documented the effect of a number of extra-legal factors on criminal justice outcomes. In addition to the gender of the accused discussed above, race and age are also important social statuses by which Western society is stratified and differentiated (Steffensmeier et al., 1998). An abundance of studies have examined the independent effects of these two variables on various court outcomes. To date, findings have been inconsistent in research examining the effects of race on sentencing (see reviews, Kleck, 1985; Kramer & Steffensmeier, 1993). Some studies show that blacks receive more severe sanctions than whites (Lizotte, 1978; Petersilia, 1983; Spohn, 1990; Spohn et al., 1981-82); others show that blacks receive more lenient sentences than whites (Bernstein et al., 1977); and still others find few race differences (Klein et al, 1988; Wilbanks, 1987) or mixed results (Dixon, 1995; Kramer & Steffensmeier, 1993). Research has also found that the presence and size of race effects vary across courts with different contextual characteristics (Myers & Talarico, 1987; Tonry, 1995). In this analysis, a dummy variable captures whether the accused is white or non-white. While such a measure is common in criminal justice research on race, using a dichotomy



to measure the race/ethnicity of an accused loses much information because a wide variety of race and ethnic groups are included in each of these broad categories. However, due to data limitations, more refined categories were not possible. In the Toronto sample, the majority of accused were white (56 percent).

Findings on the age-sentencing relationship are sparse and recent research reveals that the association is more complex than traditionally believed. On the one hand, most analyses of sentence outcomes control for age as a continuous variable, assuming a linear effect; these analyses typically report a small or negligible age effect (e.g. Klein et al., 1988; Myers & Talarico, 1987; Peterson & Hagan, 1984). On the other hand, several studies find – when the data are partitioned into ‘older’ versus ‘younger’ offenders – that older offenders (e.g. 50 and over) are treated more leniently than younger offenders (e.g. offenders in their 20s; see Champion, 1987; Cutsall & Adams, 1983; Wilbanks & Kim, 1984). Notably, those accused who are in their 60s and 70s appear to benefit the most from the overall greater leniency extended to older persons (see Steffensmeier & Motivans, 2000). Providing some clarification of the role of age in sentencing, Steffensmeier et al. (1995) found a non-linear or inverted U-shaped relationship when the full range of adult ages was included, from late teens to young adulthood through middle and old age. This curvilinear pattern was largely due to the more lenient sentencing of youthful (aged 18-20) compared to young adult offenders (aged 21-29). Younger offenders, aged 18-20, received sentences on par with offenders in their 30s whereas offenders in their 50s and older received the most lenient sentences. The age-sentencing relationship, then, becomes strictly linear from about age 30 into old age. In the present study, the age of the accused is measured in two ways. First, for descriptive and bivariate analyses, a five-category age variable is used that categorizes accused persons into the following age groups: 18-24, 25-34, 35-44, 45-54, and 55 and older. These age groups are consistent with official statistics documenting aggregate patterns in adult criminal court outcomes (CCJS, 2003a). In the multivariate analyses, a continuous variable that captures the reported age of the accused is used. Table 3 shows the distribution of these age groups in the Toronto sample as well as the average age of the accused (31 years).

Employment status and marital status may also be considered social status variables because, similar to the victim-accused relationship, they may be seen as indicators of ‘social morphology’ or the degree to which individuals participate in social life (Black, 1976). For instance, employment status may be relevant to court outcomes because holding a job represents, not only economic power (Turk, 1969), but also social integration (Black, 1976; Landes, 1974). Thus, accused persons who are employed may be treated more leniently at some stages of the criminal process than those who are unemployed (Boris, 1979; Reskin & Visher, 1986). A dummy variable that indicates whether an accused is employed or unemployed shows that, in the Toronto data, 30 percent of the accused were employed.²² Marital status also represents a form of social integration (Black, 1976; Myers, 1980) and, to capture this, a variable is included that

²² In addition to the ‘employable’ person who was unemployed, the unemployed category includes those who were retired or too young to be part of the labour force, those who were on welfare or disability pensions, and those who were employed periodically or on a seasonal basis, but were not employed at the time of the homicide. The employed category includes those who were employed full- or part-time, students, and those who were legally employed at home (i.e. self-employed).

distinguishes accused persons who were married or not married when the homicide occurred.²³ Just over 40 percent of all accused persons in the Toronto sample were married.

Finally, whether or not an accused had a history of psychiatric treatment may be relevant to his or her treatment within the criminal justice process. Thus, a variable captures whether an accused had received inpatient or outpatient treatment for a psychiatric disorder(s). In the Toronto data, where information was available, 10 percent of the accused had received some type of psychiatric treatment.

Characteristics of the victim

Previous research on criminal justice decision-making has often considered only the characteristics of the accused as possible determinants of court outcomes. However, the social structure of a case depends on the identity of both the victim and the accused (Baumgartner, 1999). Thus, considering the characteristics of only one of the parties involved may produce misleading results. Paralleling the variables that capture the characteristics of the accused, measures are included for the victim's race/ethnicity, age, employment status, marital status as well as prior psychiatric and criminal history (again, see Table 3.3 for coding and descriptive information).

Various social status characteristics of the victim have been shown to be important determinants of criminal justice outcomes in cases of violent crime (Horwitz, 1990; Williams, 1976). First, a dummy variable captures whether the victim was white (coded 0) or non-white (coded 1). In the Toronto sample, 58 percent of the victims were white. The age of the victim has also been found to be relevant at some stages of the criminal justice process, particularly at the initial charging stage (see Williams, 1976). Thus, measures for victim age parallel those included for the accused. The average age of the victim in the Toronto sample was 35 years. The victim's employment status may also be relevant as research has demonstrated that the criminal justice system's response to men who kill employed women is different from the response to offenders who kill unemployed women (Crawford and Gartner, 1992). For example, killers of employed women were more likely to be charged with and convicted of first-degree murder and, thus, received longer sentences. Overall, cases that involved employed victims were found to be prosecuted to a significantly greater degree than if victims were unemployed (Boris, 1979). To capture this, an employment status variable similar to that included for the accused is incorporated, showing that 40 percent of the victims in this sample were employed. The marital status of the victim may also be relevant to criminal justice decision-making (Horwitz, 1990). Victim's marital status is measured the same as the accused person's marital status, demonstrating that 45 percent of the victims were married. Finally, two variables are included to capture the victim's psychiatric and criminal history. In this sample, six percent of the victims had received some type of psychiatric history and 30 percent had a prior record.

²³ The 'married' category includes those who were married and living with their spouse; married, but separated due to marital problems, living common-law for more than one-month or married, but not living together due to work and/or immigration. The category 'not presently married' includes those who had never been married or were widowed, divorced or not living with a new partner, separated from common-law partners as well as those who had been living together off and on or living together for less than one month.



Characteristics of the incident

Several characteristics of a homicide incident have also been shown to affect criminal justice decision-making. For example, weapon use has often been used as a measure of offence seriousness and has been found to be associated with more severe criminal justice treatment (Hagan et al., 1980; LaFree, 1980; Lizotte, 1978). When that weapon is a gun, some U.S.-based research has demonstrated that more severe criminal sentences result (Cook & Nagin, 1979; Loftin et al., 1983; Wright et al., 1983). In contrast, other research has shown that firearm homicides are treated more leniently, possibly because guns kill more quickly and efficiently than other methods (Givelber, 1994). While there is no comparable research in Canada, anecdotal evidence suggests that judges do not appear to label gun killings as particularly brutal nor is there any evidence that they impose more severe criminal sanctions in these cases (Grant et al., 1998). To control for the potential effects of gun use, however, a variable distinguishes between gun killings and those that involved some other method (e.g. stabbing or beating). Guns were used in close to one-quarter (24 percent) of the Toronto homicides.

With respect to the location of a homicide, research suggests that the public nature of a crime may be seen as a threat to the maintenance of social order whereas crimes that occur in private are less likely to be perceived as such (Lundsgaarde, 1977). In Canada, according to the most recent figures, almost two-thirds (63 percent) of the 544 homicide incidents that occurred in 2002 took place in a private residence (CCJS, 2003a). More specifically, the majority of spousal and other familial homicides (93 percent) occurred in private locations (CCJS, 2003a). Consistent with national figures, about 64 percent of the Toronto homicides took place in private whereas approximately 36 percent took place in a public or semi-public location. A dichotomous measure distinguishes between private and public killings.

Finally, research has demonstrated that alcohol and/or drug use by the victim may affect court outcomes because of the way it may influence perceptions of some victims as blameworthy or potentially responsible for their own victimization (see Williams, 1976). In contrast, alcohol or drug use by the accused may reduce his or her culpability to some degree because intoxication may act to diminish or reduce the perceived intent of the accused (Grant et al. 1998). To capture the potential effects of substance use on court outcomes, separate measures for accused and victim alcohol and/or drug use at the time of the homicide is included, distinguishing between those who had been using alcohol and/or drugs and those who had not. Accused persons had been using substances in 55 percent of the Toronto homicides whereas victims had been drinking or using drugs in 45 percent of the incidents.²⁴

²⁴ Information on alcohol and/or drug use for both victim and accused is often problematic and, thus, findings with respect to this variable must be treated with caution. The number of homicides classified as alcohol-related, however, is generally much greater than those involving drug consumption (Grant et al., 1998; Statistics Canada, 1987). And, while it is commonly assumed that alcohol consumption and violence is closely linked, the connection is difficult to systematically examine because of the lack of methodological rigor and difficulty in measuring consumption by the accused at the time of the homicide (for a more detailed discussion of the role of intoxication in homicide and the law, see Grant et al. 1998).

3.7 Analytic Procedures

Results from the bivariate analyses are presented first, allowing for an examination of patterns that exist between the type of victim-accused relationship and the criminal justice outcomes as well as the other independent and control variables. An examination of these associations is important because such patterns can begin to identify how intimate partner homicides might differ from non-intimate partner homicides in the characteristics of the incidents or the individuals involved. Second, multivariate analyses using logistic regression and ordinary least squares regression are used to assess the extent to which the victim-accused relationship affects the criminal justice outcomes, controlling for relevant legal and extra-legal factors. Put more simply, the multivariate analysis further isolates the independent effects of intimacy on criminal justice decision-making by holding constant the effects of other variables.²⁵ It is recognized that, as accused persons move through the criminal process, various individuals will drop out of the system at various stages and, thus, the effects of sample selection bias need to be considered.²⁶ Additional analyses examine in more detail the effects of intimacy over time on criminal justice outcomes as well as the association between gender and intimacy. While qualitative information was not available consistently in all cases, where possible, case narratives that provide more descriptive information on individual cases are provided to further illustrate the context surrounding intimate and non-intimate partner homicides.

²⁵ Logistic regression is used to examine the dichotomous dependent variables because of its efficiency, its ability to accommodate both continuous and categorical regressors, and its interpretability (Agresti, 1990; Aldrich & Nelson, 1984; Fox, 1997; Long, 1996; Morgan & Teachmen, 1988). Ordinary least squares regression is used to determine the extent to which the victim-accused relationship affects the length of sentence imposed on accused persons who have been convicted for their crime(s). Because sentence length is a continuous measure, a linear regression model is appropriate, taking into account deviations from the linear prediction by showing the linear relationship between a continuous dependent variable and one or more independent variables plus an error term (Lewis-Beck, 1980; Schroeder et al., 1986).

²⁶ This is discussed in more detail in the multivariate analysis section.



4.0 Results

4.1 Bivariate patterns: A preliminary look at intimacy and justice

TABLE 4.1
BIVARIATE ASSOCIATIONS FOR CRIMINAL JUSTICE OUTCOMES AND TYPE OF HOMICIDE, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002

| Variables | Total Sample (N=1,137) | Intimate Partners (N=230) | Non-Intimate Partners (N=907) |
|----------------------------------------------|---------------------------|------------------------------|----------------------------------|
| Criminal justice outcomes^a | | | |
| First degree murder charge (N=1,137) | 37% (419) | 35% (80) | 37% (339) |
| Case sent to trial (N=1,130) | 58% (654) | 53% (122) | 59% (532) |
| Found guilty at trial (N=654) | 60% (395) | 64% (79) | 60% (316) |
| Not criminally responsible (N=259) | 37% (96) | 57% (25)** | 33% (71) |
| Likelihood of conviction (N=1,137) | 76% (866) | 80% (185) | 75% (681) |
| Convicted of murder (N=866) | 39% (341) | 41% (76) | 39% (265) |
| Sentenced to federal institution (N=866) | 83% (715) | 81% (149) | 83% (566) |
| Length of sentence (N=866) | 9.20 years | 9.11 years | 9.23 years |

Note: * p < .05 ** p < .01 *** p < .001

^a Number in parentheses indicates sample size at that stage of the criminal process because number of accused persons varies at some stages.

Table 4.1 shows the results from the bivariate analysis that compares the treatment of the two types of homicide across the various criminal justice stages. With respect to the eight outcomes, it appears that the treatment of those accused of killing intimate partners differs from that received by those who killed other types of victims at only one decision-making point – type of acquittal. More specifically, in the Toronto sample, among those acquitted, accused persons who killed intimate partners were significantly more likely to be found ‘not criminally responsible by reason of mental disorder’ than accused persons who killed victims with whom they shared more distant relationships (57 percent compared to 33 percent; see Box 3). With respect to the other stages of the criminal process, the victim-accused relationship does not

Box 3. Accused Found Not Criminally Responsible by Reason of Mental Disorder**Case #8633**

The male accused in this case claimed that his dead grandmother had been talking with him since her death and, on the night of the killing, had instructed him to kill his mother – the victim. That morning, the accused got a knife from the kitchen and attacked his mother. He stabbed her, in total, 125 times. When she was lying in a pool of blood in the kitchen, the defendant washed and changed his clothes in the bathroom. When he returned, he thought he saw his mother move and make a gurgling sound. He took the knife again and slashed her a number of times through the neck, severing the jugular vein. After he knew she was dead, he called for police and an ambulance and confessed to the killing. The accused had been receiving psychiatric treatment for more than a decade. He had also been hospitalized a number of times. *The accused was originally charged with second-degree murder, but was found not guilty by reason of insanity.*

Case #9702

The male victim and male accused were transients who were staying at a shelter. On the morning of the killing, both were seen leaving the shelter. Later they were observed standing on the sidewalk where the accused struck the victim, inflicting a stab wound to the victim's eye. The victim fell to the ground and the accused walked away. A witness called 911 to report the crime and directed the police in the direction that the accused had gone. An investigation revealed that the victim was a regular at the shelter, but the accused had only recently begun to stay there. On the night before the killing, the accused arrived late and the bed he had been using had been assigned to its regular client – the victim. The accused became upset because he felt the bed should be his since he slept in it the previous night, but he was assigned another bed instead. No confrontation was reported until the next morning when the accused stabbed the victim. There had been no previous interactions between the accused and the victim. *The accused was charged with first-degree murder, but was found not criminally responsible by reason of mental disorder.*

Case #8751

The male accused had been seeing doctors for his insomnia and depression. A doctor had recommended that the accused be admitted into a psychiatric hospital, but the accused refused. The female victim, a friend, invited him to her place to talk over his problems on the day of the killing. While there, the accused lost control and flew into a rage. He strangled, stabbed and suffocated the victim. He tried to make the victim's death look like a sexual assault gone bad and left the apartment. Later, the wife of the accused awoke to find him in bed beside her with an axe in his hand. They talked until he passed out from a drug overdose and his wife called the police. *The accused was initially charged with first-degree murder, but was found not guilty by reason of insanity and hospitalized.*

Case #9704

The female victim and male accused were staying over at a friends' home. Early in the morning, the friends were awoken from their sleep by a scream from the room where the victim and the accused were sleeping. They went into the bedroom where they found the accused kneeling on top of the victim, stabbing her repeatedly. The friends intervened and the police were called. The friends indicated that, during the evening prior, they had not consumed any alcohol. They were also not aware of any prior violence between the victim and the accused. The victim, who was pregnant, had been stabbed 29 times. When arrested, the accused did not seem to comprehend what was happening and was not responsive to questions. *The accused was charged with second-degree murder, but was found not criminally responsible.*

Case #8138

The male accused believed that the female victim and their male tenant were having an affair. He tried to have the tenant evicted in court on the day of the killing, but was unsuccessful. Later that evening, while the accused and the victim were preparing supper, they began to argue. The accused grabbed the knife the victim was using to prepare the meal and stabbed her with it. She suffered stab wounds to the chest and head. There was a history of prior violence by the accused against the victim and the police had been involved in some of these prior incidents. A psychiatrist had been treating the accused at the time of the killing, but there was no indication what the treatment was for. *The accused was charged with first-degree murder, but was found not guilty by reason of insanity and sentenced to hospitalization.*

**Case #8155**

The male accused had been unemployed for a couple of months and there was increased domestic discord during this time between him and the female victim. The couple had apparently been arguing about the children when the accused sent the children to a friend's house. At some point as the couple continued to argue, the accused strangled the victim then fled the scene. The friends who were looking after the couple's children discovered the victim's body that afternoon. The accused claimed that the devil had commanded him to kill the victim. It was alleged that he had been suffering delusions, including that the victim was being unfaithful to him. He had been receiving outpatient psychiatric treatment. *The accused was charged with second-degree murder, but was found not guilty by reason of insanity.*

appear to affect the outcome, at least at the bivariate level.²⁷ Looking more closely at length of sentence, Table 4.2 shows the distribution for five sentence categories for the total sample of convicted accused by type of homicide. There were no significant differences in the sentence categories by type of victim-accused relationship.

TABLE 4.2
DISTRIBUTION FOR SENTENCE LENGTH CATEGORIES BY TYPE OF HOMICIDE, TOTAL SAMPLE OF CONVICTED ACCUSED PERSONS, TORONTO, ONTARIO, 1974-2002

| Variable | Total Sample (N=866) | Intimate Partners (N=185) | Non-Intimate Partners (N=681) |
|-------------------------------|-------------------------|------------------------------|----------------------------------|
| Length of sentence | | | |
| 2 years or less | 17% (151) | 20% (36) | 17% (115) |
| Between 2 years and 10 years | 37% (316) | 32% (59) | 38% (257) |
| 10 years | 17% (148) | 18% (33) | 17% (115) |
| Between 10 years and 24 years | 20% (171) | 21% (39) | 19% (132) |
| 25 years | 9% (80) | 10% (18) | 9% (62) |

Note: There were no significant differences in length of sentence by type of homicide.

Table 4.3 shows the distribution of homicides over the three time periods and by gender. Looking at gender, consistent with national figures (CCJS, 2003a), males comprised the majority of accused persons in both types of homicide (89 percent), but they were significantly more likely to be the accused in non-intimate partner homicides compared to intimate partner homicides. More specifically, 92 percent of the non-intimate partner homicides involved a male accused compared to 78 percent in cases of intimate partner homicides. Similarly, males represented the majority of victims across both types of homicide, but victims were significantly more likely to be male in cases of non-intimate partner homicide (82 percent) compared to intimate partner homicides (27 percent). Recent research has also shown that the gender combination of the accused and the victim is also important (Whaley & Messner, 2002) in

²⁷ The findings here contradict the majority of earlier bivariate research on intimacy and criminal justice. A primary reason for this may be that prior research does not distinguish between intimate partners and other types of intimate relationships as already noted. The majority of studies defined intimate violence as those acts that occurred between spouses, family and friends, comparing the treatment of this larger 'intimate' group to the treatment of those who shared non-intimate relationships, including acquaintances and strangers.

distinguishing the type of homicide – intimate partner or non-intimate partner – as is also shown in Table 4.3.

| TABLE 4.3 BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE, YEAR CASE ENTERED THE COURT SYSTEM AND GENDER, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002 | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------|----------------------------------|
| | Total Sample | Intimate Partners | Non-Intimate Partners |
| <i>Variables</i> | (N=1,137) | (N=230) | (N=907) |
| Year case entered court | | | |
| Time period: 1974-1983 | 38% (430) | 43% (99) | 37% (330) |
| Time period: 1984-1996 | 51% (578) | 48% (111) | 51% (467) |
| Time period: 1997-2002 | 11% (130) | 9% (20) | 12% (110) |
| Gender | | | |
| Accused is male | 89% (1,011) | 78% (179) ^{***} | 92% (832) |
| Victim is male | 71% (806) | 27% (62) ^{***} | 82% (744) |
| Gender combination | | | |
| Male-on-male homicide | 62% (701) | 5% (11) ^{***} | 76% (690) |
| Male-on-female homicide | 27% (310) | 73% (168) ^{***} | 16% (142) |
| Female-on-male homicide | 9% (105) | 22% (51) ^{***} | 6% (54) |
| Female-on-female homicide | 2% (21) | -- | 2% (21) |

Note: * p < .05 ** p < .01 *** p < .001

Other significant associations between the control variables and the type of homicide support previous research that has shown intimate partner homicides are distinct from other types of lethal violence (Silverman & Kennedy, 1993). For example, with respect to legal factors, Table 4.4 shows that accused persons in intimate partner homicide cases were less likely to have a prior record for non-violent crimes than accused persons in non-intimate partner homicides (35 percent compared to 45 percent). There were no differences, however, in the violent criminal histories of the two types of accused. In addition, accused persons in intimate partner homicides were more likely to be the primary offender (98 percent) than was the case with those accused of non-intimate partner homicide (82 percent). This was due to the fact that only three percent of the intimate partner homicides involved multiple perpetrators compared to 19 percent of the non-intimate partner homicides.



**TABLE 4.4
BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE AND LEGAL FACTORS IN HOMICIDE CASES,
TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002**

| | Total Sample | Intimate Partners | Non-Intimate Partners |
|--------------------------------|--------------|-------------------|-----------------------|
| <i>Variables</i> | (N=1,137) | (N=230) | (N=907) |
| Legal factors | | | |
| Accused had non-violent record | 43% (488) | 35% (81)** | 45% (407) |
| Accused had violent record | 13% (149) | 11% (25) | 14% (124) |
| Primary accused | 85% (969) | 98% (225)*** | 82% (744) |
| Multiple accused persons | 16% (182) | 3% (6)*** | 19% (176) |
| Multiple victims | 4% (48) | 5% (11) | 4% (37) |

Note: * p < .05 ** p < .01 *** p < .001

Turning to extra-legal factors, a number of the characteristics of the accused distinguished between intimate partner and non-intimate partner homicides as shown in Table 4.5. With respect to age, accused persons were younger in cases of non-intimate partner homicide compared to those in intimate partner homicides (42 and 10 percent, respectively, were aged 18 to 24). In contrast, the proportion of older accused in the intimate partner group was significantly greater than the proportion of older accused in the non-intimate partner category. Overall, the average age of an individual accused of killing an intimate partner was 38 years whereas the average age of an individual accused of killing a non-intimate partner was 29 years. Finally, three other characteristics of the accused distinguished the two types of homicide – employment status, marital status and history of psychiatric treatment. Briefly, those who killed intimate partners were more likely to be employed, to be married, and to have a history of psychiatric treatment than those who killed non-intimate partners.²⁸

²⁸ In the Toronto sample, where information was available, 10 percent of accused persons had a psychiatric history and this is slightly lower than national estimates of 13 percent (CCJS, 2003a). It is important to note, however, that both national figures and those reported here should be interpreted with caution because information may not always be based on medical assessments.

TABLE 4.5
BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE AND CHARACTERISTICS OF THE ACCUSED,
TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002

| | Total Sample | Intimate Partners | Non-Intimate Partners |
|---------------------------------------------------|--------------|--------------------------|-----------------------|
| <i>Variables</i> | (N=1,137) | (N=230) | (N=907) |
| Characteristics of the accused^a | | | |
| Accused is white | 56% (573) | 54% (119) | 57% (454) |
| Accused is 18-24 years old | 35% (403) | 10% (24) ^{***} | 42% (379) |
| Accused is 25-34 years old | 36% (411) | 34% (79) | 37% (332) |
| Accused is 35-44 years old | 17% (196) | 30% (70) ^{***} | 14% (126) |
| Accused is 45-54 years old | 8% (89) | 17% (38) ^{***} | 6% (51) |
| Accused is 55 years plus | 3% (38) | 8% (19) ^{***} | 2% (19) |
| Mean age of accused | 31 years | 38 years ^{***} | 29 years |
| Accused is employed | 30% (289) | 50% (107) ^{***} | 24% (182) |
| Accused is married | 41% (421) | 76% (172) ^{***} | 31% (249) |
| Accused has psychiatric history | 10% (101) | 17% (36) ^{***} | 8% (65) |

Note: * p < .05 ** p < .01 *** p < .001

^a Information was missing in some cases for the following variables: Race/ethnicity, employment status, marital status and psychiatric history. Therefore, percentages shown above for those variables are based on total number of cases for which information was available. See Appendix C, for information on missing information.

Significant differences were also found in the characteristics of the victims by type of relationship as shown in Table 4.6. For example, intimate partner homicides were less likely to involve younger victims, aged 18-24, than non-intimate partners homicides (13 percent compared to 20 percent). Moreover, the number of victims aged 25 to 44 years was significantly greater among intimate partner homicides than among non-intimate partner homicides (65 percent compared to 42 percent; combining those aged 25-34 and 35-44). Overall, the average age of victims killed by intimate partners was 37 years whereas the average age of victims killed by non-intimate partners was 34 years. Similar to the distribution of the accused, victims of intimate partner homicide were also more likely to be employed and to be married than other victims. With respect to the prior criminal history of the victim, those killed by intimate partners were significantly less likely to have a criminal record than those killed by non-intimate partners (22 percent compared to 33 percent). Finally, as shown in Table 4.7 with respect to incident characteristics, intimate partner homicides were less likely to occur in public (10 percent compared to 42 percent for non-intimate partner homicides) and less likely to involve a gun (13 percent) than non-intimate partner homicides (27 percent).



TABLE 4.6
BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE AND CHARACTERISTICS OF THE VICTIM IN HOMICIDE
CASES, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002

| Variables | Total Sample (N=1,137) | Intimate Partners (N=230) | Non-Intimate Partners (N=907) |
|--------------------------------------|---------------------------|------------------------------|----------------------------------|
| <i>Characteristics of the victim</i> | | | |
| Victim is white | 58% (589) | 58% (127) | 58% (462) |
| Victim is newborn to 17 years old | 9% (106) | -- | 12% (105) |
| Victim is 18-24 years old | 19% (211) | 13% (30)* | 20% (182) |
| Victim is 25-34 years old | 26% (290) | 34% (79)*** | 23% (211) |
| Victim is 35-44 years old | 22% (245) | 31% (72)*** | 19% (173) |
| Victim is 45-54 years old | 13% (142) | 12% (28) | 13% (114) |
| Victim is 55 years plus | 13% (143) | 9% (21) | 14% (122) |
| Mean age of the victim | 35 years | 37 years* | 34 years |
| Victim is employed | 40% (379) | 48% (94)** | 38% (285) |
| Victim is married | 45% (432) | 76% (171)*** | 35% (261) |
| Victim had psychiatric history | 6% (27) | 5% (6) | 6% (21) |
| Victim has prior criminal record | 31% (238) | 22% (35)** | 33% (203) |

Note: * p < .05 ** p < .01 *** p < .001

^a Information was missing in some cases for the following variables: Race/ethnicity, employment status, marital status, psychiatric history and criminal record. Therefore, percentages shown above for those variables are based on total number of cases for which information was available. See Appendix C, for information on missing information.

TABLE 4.7
BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE AND SELECTED CHARACTERISTICS OF THE HOMICIDE
CASES, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002

| Variables | Total Sample (N=1,137) | Intimate Partners (N=230) | Non-Intimate Partners (N=907) |
|----------------------------------------|---------------------------|------------------------------|----------------------------------|
| <i>Characteristics of the incident</i> | | | |
| Homicide occurred in public | 36% (406) | 10% (24)*** | 42% (382) |
| Gun was used as weapon | 24% (270) | 13% (30)*** | 27% (240) |
| Accused drinking/using drugs | 55% (333) | 51% (78) | 56% (255) |
| Victim drinking/using drugs | 45% (363) | 45% (89) | 46% (274) |

Note: * p < .05 ** p < .01 *** p < .001

^a Information was missing in some cases for the following variables: Accused drinking/using drugs and victim drinking/using drugs. Therefore, percentages shown above for those variables are based on total number of cases for which information was available. See Appendix C, for information on missing information.

Based on the above results, there are a number of differences between the characteristics of intimate partner and non-intimate partner homicides and those involved. The more important question for this analysis, then, is whether those accused of killing intimate partners are treated differently from other types of accused persons once controls are introduced for factors that distinguish among these crimes and that may also affect criminal justice decision-making. In other words, if the courts do treat intimate partner homicides differently than other types of homicide, it is important to determine whether differences in treatment stem from the *nature* of the relationship itself or the distinct characteristics of that type of homicide. For example, if those accused of killing intimate partners are less likely to have prior criminal records than other

types of accused as shown above, different sentences might be expected given that criminal history is a legal factor that can affect the severity of the sentence imposed. In addition, recall that prior research has suggested that public homicides are perceived to warrant more severe sanctions because they are believed to pose a greater threat to the maintenance of social order (Lundsgaarde, 1977). If non-intimate partner homicides are more likely to occur in public as was also shown, it would be logical to expect that those accused in these cases will receive more severe sanctions for their crimes.²⁹ Controlling for these and other factors, then, the findings of the multivariate analysis below isolate the independent effects of intimacy on criminal justice outcomes.

4.2 Multivariate analysis: Isolating the effects of intimacy in criminal law

Because the objective here is to compare the treatment of those who killed intimate partners to the treatment received by those who killed victims with whom they shared more distant relationships, a reduced sample is used in this part of the analysis for two reasons. First, intimate partner homicides rarely involve more than one accused and one victim (Silverman & Kennedy, 1987, 1993). For example, in the Toronto data, 98 percent of those accused of killing intimate partners acted alone whereas 82 percent of the 907 accused of killing other types of victims acted alone. Therefore, while the majority of homicides involve lone offenders, this is almost exclusively the situation in intimate partner homicides. With respect to the number of victims, the proportion of intimate partner and non-intimate partner homicides that involved the killing of more than one victim is small, but similar (4% and 5% respectively). Thus, in order to compare similar types of killings, the reduced sample is restricted to cases that involved one accused and one victim. Second, by virtue of its definition, the category ‘intimate partner’ is comprised primarily of adults. In the Toronto sample, the youngest accused person who killed an intimate partner was 19 years of age while the youngest victim killed by an intimate partner was 17 years of age. Again, to ensure that similar types of cases are compared, the reduced sample is restricted to those victims who were greater than or equal to these ages. The final reduced sample used in the multivariate analysis, then, was 914 cases.

The control variables used in the multivariate analyses are similar to those examined in the bivariate analysis. Of particular interest, however, are the variables that significantly distinguished between intimate partner and non-intimate partner homicide at the bivariate level. For example, there were significant differences between the two types of homicide based on the accused person’s prior record, gender, age, employment status, marital status and psychiatric history. In addition, the victim’s gender, age, prior criminal record, employment and marital status as well as location and method of killing also distinguished between the two types of

²⁹ While the validity of such an assumption can be challenged – the belief that intimate partner homicide does not pose as great a threat to the maintenance of social order than other types of homicides – it is beyond the scope of this report. Recent research has found, however, that it may be problematic to assume that an individual who victimizes intimates does not pose a threat to members of the public. In addition to the potential threat to future intimate partners, Moffit et al. (2000) found that partner abuse and ‘general crime’ were related: Those likely to commit one type of crime were likely to commit other offences as well. Thus, the perception that those who victimize intimates, and in particular intimate partners, do not commit other types of violent or non-violent crime is erroneous. These individuals engage in violence against non-intimates as well as in a variety of non-violent offences. These and other stereotypes surrounding intimacy and interpersonal violence, then, are worthy of and warrant further investigation.



homicide. It is important, then, to control for these factors in the multivariate analysis to allow for an examination of the independent effects of intimacy on court outcomes.³⁰

Results are presented in Table 4.8 for a series of multivariate models. Models 1 through 7 show the results of the logistic regression analysis that was used to examine the odds of being in the focal group compared to the reference group based on particular characteristics (only the odds are shown here³¹; see Appendix D for the full results for each model). The final column – Model 8 – shows the multiple regression coefficients for length of sentence. Findings for each stage of the process for the key independent variables – victim-accused relationship, the year the case entered the court, and gender – are discussed first.³²

With respect to the entry point of the criminal process, Model 1 demonstrates that those accused of killing intimate partners were less likely to be charged with first-degree murder than those accused of killing victims with whom they shared more distant relationships. Model 2 shows that accused persons in intimate partner homicides were less likely to have their cases resolved at trial than those who killed other types of victims. In other words, cases of intimate partner homicide were more likely to be disposed of by guilty plea than cases of non-intimate partner homicide. However, among those cases that were resolved at trial, Model 3 demonstrates that accused persons who killed intimate partners were significantly more likely to be convicted at this stage than those who killed non-intimate partners (see Box 4). Among those acquitted (Model 4), however, there were no differences in the type of acquittal – not guilty versus not criminally responsible by reason of mental disorder.³³

³⁰ To retain the maximum sample size and control for any biases associated with missing values on any of the independent variables, each model includes missing dummy variables for those variables missing information in more than 10 percent of the cases. The missing dummy variables are coded 0 if data were present and 1 if data were missing. None of the regression coefficients for the missing value dummy variables were significant, indicating that the missing information should not bias the results. However, information on two of the independent variables – victim’s psychiatric history and substance use by the accused – was missing in approximately 50 percent of the cases and, therefore, these variables were not included in the multivariate analysis. Appendix C lists all the independent and control variables with the number and percent of cases that are missing information on each variable.

³¹ If the odds were greater than 1 and significant (as indicated by at least one asterisk), an accused was more likely to fall into the focal category (e.g. more likely to be charged with first-degree murder than a less serious charge). If the odds were less than one and significant, an accused was less likely to fall into the focal category (e.g. less likely to be charged with first-degree murder than a less serious charge).

³² Because earlier decisions are expected to affect later outcomes, unmeasured variables that affect one stage of the process may be correlated with unmeasured variables that affect a later outcome, producing a correlation between error terms on the two dependent variables. As a result, without including information on how cases are screened into each stage of the process, estimates of the effect of variables included in the next stage of the process may be biased (Berk 1983; Berk & Ray 1982; Klepper et al., 1983). To correct for this, a two-equation estimation procedure was followed to control for incidental sample selection bias in the coefficients of the variables affecting various decision points (Berk, 1983; Berk & Ray, 1982; Heckman, 1976, 1979; Klepper et al., 1983). Because results from the corrected models did not differ significantly from the uncorrected models, the latter findings are used because interpretation and presentation of results is simpler.

³³ This underscores the importance of multivariate analyses that allow one to consider simultaneously other relevant factors when looking at criminal justice decision-making because the bivariate analysis showed that those who killed intimate partners were significantly more likely to be found ‘not criminally responsible by reason of mental disorder’ when the effects of other factors were not taken into account. For a more detailed analysis of determinants of the ‘not criminally responsible by reason of mental disorder’ verdict, see Dawson (2003b).

| TABLE 4.8 MULTIVARIATE ANALYSIS EXAMINING OUTCOMES FOR INTIMATE PARTNER AND NON-INTIMATE PARTNER HOMICIDES, REDUCED SAMPLE, TORONTO, 1974-2002^a | | | | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------------------------|-------------------------------------|-------------------------------|----------------------------------|---------------------------------|--------------------------------|----------------------------------|
| | First degree murder (N=914) | Case sent to trial (N=910) | Found guilty at trial (N=517) | NCRMD acquittal (N=204) | Overall conviction (N=914) | Murder conviction (N=701) | Federal sentence (N=701) | Length of sentence (N=701) |
| Variable | <i>Model 1</i> | <i>Model 2</i> | <i>Model 3</i> | <i>Model 4</i> | <i>Model 5</i> | <i>Model 6</i> | <i>Model 7</i> | <i>Model 8</i> |
| Victim-accused relationship | | | | | | | | |
| Intimate partner | .51** | .41*** | 2.27* | .48 | 2.77*** | .71 | .78 | -.53 (.45) |
| Time period | | | | | | | | |
| Case in court 1984-1996 | 1.19 | .65* | 1.63* | .34 | 1.87** | 1.87* | 1.34 | .51 (.32) |
| Case in court 1997-2002 | 1.05 | .81 | 1.67 | .90 | 1.14 | 4.17** | 1.65 | 1.03 (.54)* |
| Gender | | | | | | | | |
| Accused is male | .79 | .74 | 2.25* | .71 | 2.35** | 2.94* | 2.35* | .82 (.50) |
| Victim is male | .43*** | .43*** | 1.12 | .14** | 1.65* | .32** | .37* | -1.47 (.41)*** |
| Legal variables | | | | | | | | |
| Non-violent record | 1.05 | .69* | 2.14** | .61 | 1.92** | 1.86* | 1.14 | 4.55 (.32) |
| Violent record | 1.78* | .61* | 6.52*** | .89 | 4.89*** | 3.03* | 4.96** | 1.23 (.41)** |
| Severity of initial charge | -- | .93 | 1.95** | 4.68** | 1.59** | 12.23*** | 15.32*** | 6.94 (.22)*** |
| Case resolved at trial | -- | -- | -- | -- | -- | 8.60*** | 1.90* | 1.03 (.29)** |
| Extra-legal variables | | | | | | | | |
| <i>Characteristics of accused</i> | | | | | | | | |
| Accused is white | 1.00 | 1.21 | 1.24 | .99 | 1.01 | 1.27 | .77 | .37 (.32) |
| Age of accused | 1.02 | .99 | .98 | 1.06* | .98* | .96* | .99 | -5.77 (.02) |
| Accused is employed | 1.04 | 1.36 | 1.79* | 2.40 | 1.23 | .71 | .49* | -.65 (.34) |
| Accused is married | 1.23 | .94 | 1.31 | .19** | 1.37 | 1.33 | .70 | -.16 (.34) |
| Accused has psych history | .70 | .72 | .46* | 26.18** | .57* | 1.55 | 9.25** | .40 (.52) |
| <i>Characteristics of victim</i> | | | | | | | | |
| Victim is white | 1.02 | .76 | 1.25 | .42 | 1.36 | 1.28 | .97 | .17 (.33) |
| Age of victim | .99 | 1.01 | 1.00 | .97 | 1.00 | 1.00 | 1.01 | 1.04 (.01) |
| Victim is employed | 2.27*** | .97 | 1.18 | 3.50* | 1.14 | 1.51 | 1.79 | .74 (.31)* |
| Victim is married | .89 | 1.15 | .74 | 5.71** | .73 | .82 | .85 | -.23 (.34) |
| Victim has prior record | .91 | .68 | .99 | 1.67 | 1.41 | .54 | 1.15 | -.31 (.34) |
| <i>Characteristics of incident</i> | | | | | | | | |
| Homicide in public locale | 1.42* | .99 | 1.32 | .30* | 1.18 | .69 | 1.06 | .28 (.32) |
| Gun used in killing | 3.28*** | 2.11*** | .86 | .31 | .69 | 1.32 | .71 | .21 (.35) |
| Victim drink/using drugs | .51** | .61** | 1.62 | .11** | 1.70* | .71 | 1.16 | -.33 (.34) |

^a Odds are shown in Models 1-7. Model 8 shows the regression coefficients with standard errors in parentheses. Full results are shown Appendix D.



Box 4. Accused who stood trial: Trial Acquittals

Case #9908

The male victim and the male accused in this case were strangers. In the early morning hours just before the killing, the victim and his girlfriend were arguing outside on the street. The accused intervened in the couple's argument. At some point during the altercation, the accused pushed and struck the victim who died the next day. The accused admitted he punched the victim, but that he only did so to protect himself and the girlfriend from the intoxicated victim. *The accused was charged with manslaughter. He pleaded not guilty and was acquitted by a jury after a three-week trial.*

Case #9715

The male victim in this case was the common-law partner of the accused person's sister. The common-law relationship had allegedly been fraught with abusive behavior on the part of the victim toward the sister of the male accused. As a result, there was increasing animosity between the victim and the accused. On the day of the homicide, the victim went to the home of the accused and a physical confrontation took place. Neighbors who witnessed the fight, alerted the police, but when they arrived at the scene, the victim was dead. *The accused was charged with manslaughter. He pleaded not guilty and his case was sent to trial where he was found not guilty.*

Case #9713

The male victim and the male accused in this case lived in the same rooming house. The victim died after his mattress was set on fire by the accused. Fellow tenants tried to douse the fire, but to no avail. The victim was dead when firefighters arrived on the scene. The accused, a schizophrenic, confessed to starting the fire, but said it was an accident that occurred when he spilled fluid trying to refill a lighter. *The accused was charged with manslaughter, but was acquitted at trial.*

Case #9637

The elderly male victim in this case was beaten to death and left in a dumpster behind an apartment building where his body was not discovered until about four months later. It was alleged that a fight occurred between the victim and the male accused, who were acquaintances, over a small amount of money at a drinking party. *The accused was charged with second-degree murder, but was acquitted by a jury.*

Case #9205

The male accused in this case was among a number of visitors who were drinking together in an apartment. It was alleged that he dropped a cigarette, saw it ignite and then left. The fire quickly spread trapping residents of the apartment building. The female victim, overcome with smoke, died after suffering from a heart attack when she was trapped in an elevator. *The accused was charged with second-degree murder, but was acquitted because there was not a clear account of what happened and reasonable doubt as to who started the fire.*

Case #9407

The male victim and female accused in this case were boyfriend and girlfriend. On the evening of the killing, they were both drinking when it was alleged that the accused stabbed the victim in self-defence. The jury heard that the accused had been both physically and verbally abused by the victim, who died from a single stab wound to the heart. *The accused was charged with manslaughter, but acquitted by a jury.*

Model 5 shows that accused persons in intimate partner homicide cases were significantly more likely overall to result in a conviction than accused persons in non-intimate partner homicides. That is, when all cases were considered, both those resolved at trial and through guilty pleas, accused persons who killed intimate partners were more likely to be convicted. Recall, however, that cases of intimate partner homicide were also more often resolved through guilty pleas and this, in turn, would increase their overall likelihood of conviction (see Box 5). Model 6, that examines the severity of the conviction, demonstrates that there were no differences in the type of conviction across the two relationship categories. Finally, with respect to sentencing

outcomes, Model 7 and 8 examine whether the victim-accused relationship determines the type of sentence an accused would receive and, if imprisonment was imposed, the length of sentence. Results show that intimacy does not appear to matter at the sentencing stage.

Box 5. Accused persons who stood trial: Convicted as charged

Case #9711

The male victim and another male allegedly went to an area to purchase some drugs. Upon nearing the location, they were directed to a park where they approached a group of four males. An altercation arose surrounding the purchase and one of the males began to chase them from the area. The other three males joined the chase. At some point, the two split up after which one of the males being chased – the victim – fell to the ground. One of the males – the accused – caught up to him and stabbed him in the chest then fled the scene. *The accused was charged with second-degree murder, but pleaded not guilty and his case was sent to trial. He was found guilty as charged and sentenced to life with no parole for 10 years.*

Case #8225

The female victim and male accused met at a tavern where they consumed a large quantity of alcohol and then left together. After sexually assaulting and mutilating the victim, the accused strangled her. He dumped the body in an alleyway about four kilometers from her home. The next day, the semi-nude body of the victim, a single mother, was found. *The accused was charged with first-degree murder. He pleaded not guilty and his case was sent to trial where he was found guilty as charged and sentenced to the mandatory life sentence with no parole for 25 years.*

Case #8215

On the morning of the killing, the male accused stopped to talk to the female victim in her apartment, located in the same building. During the conversation, they got into a fight. At some point during the dispute, the accused claims that the victim confronted him with a weapon. He grabbed it from her and hit her with it. Evidence showed that the victim had been struck 12 times on the head. The accused dragged the victim out of the apartment into the stairwell and left her there. He went back into the apartment, cleaned up and went to work. Physical evidence tied the accused to the scene and he eventually confessed to the crime. *The accused was charged with and convicted at trial of second-degree murder and was sentenced to 10 years before parole eligibility.*

Case #9701

The female victim and the male accused in this case had been dating for a short time, but had broken up two weeks prior to the homicide. The victim's daughter had not heard from her mother in a couple of days so she called the police and asked them to check on her mother. When they arrived at the victim's home, they found her dead. The investigation determined that the accused had repeatedly stabbed the victim with two knives. *The accused was charged with second-degree murder. He pleaded not guilty and his case was sent to trial where he was found guilty and sentenced to 15 years before parole eligibility.*

Case #9719

The male accused was the victim's estranged husband from whom she had been separated for about one year. The victim was allegedly being stalked by the accused. On the day of the killing, residents in the area heard a woman screaming and saw the accused kneeling down over the victim, striking her. Two witnesses ran to assist the victim while others called the police. The accused was tackled and held by two men until the police arrived. The victim had been stabbed in the head, neck and chest area close to 60 times. Prior to the attack, the accused had been charged with uttering death threats against the victim, but he had been released on the condition that he would stay away from the victim. *The accused was charged with first-degree murder, but pleaded not guilty. His case was sent to trial where he was found guilty as charged by a jury and sentenced to the mandatory life sentence with no parole for 25 years.*

**Case #8032**

The female victim and male accused were dating. They got into a fight on the day of the killing. The accused slashed the victim's throat, stabbed her 26 times, and sexually assaulted her. Neighbors called the police to report that there was a domestic dispute occurring at the victim's address. When police arrived, the victim was found lying on the kitchen floor with stab wounds to the neck. The accused had assaulted the victim in the past, but charges related to these incidents had been withdrawn. However, the accused was under a court order to stay away from the victim. It is alleged that the victim had been planning on breaking off her relationship with the accused and he suspected it. *The accused was charged second-degree murder. He pleaded not guilty and his case was sent to trial. He was found guilty as charged and sentenced to the minimum mandatory sentence of 10 years for second-degree murder.*

Case #9013

The female victim and the male accused had been going out for about one year. Before her death, however, the victim had been trying to break off their relationship. On the day of the killing, when the accused finished work, he went to the victim's apartment because he had heard she had been seen with another man a few days earlier. When the victim arrived home, they got into an argument. The investigation revealed that the accused allegedly grabbed a knife from a nearby table and stabbed the victim 62 times. A neighbor broke into the victim's flat when he heard screaming and found the victim kneeling on the floor covered in blood with the accused standing over her. *The accused was charged with and convicted at trial of second-degree murder. He was sentenced to 12 years.*

In summary, after examining the effect of the victim-accused relationship on each of the criminal justice outcomes, it appears that the earlier stages of the criminal process are more important in understanding the role played by intimacy in criminal law, but not necessarily in the direction expected. The four key findings are as follows:

- *First-degree murder charge:* At the initial charging stage, accused persons who killed intimate partners were significantly less likely to be charged with first-degree murder than those who killed non-intimate partners. In other words, because the majority of accused are initially charged with murder as already noted, those who killed intimate partners were more likely to be charged with second degree rather than first-degree murder.
- *Case sent to trial:* Cases that involved intimate partners were significantly less likely to be resolved at trial than cases involving non-intimate partners. Therefore, accused persons who killed intimate partners were more likely to plead guilty than those who killed non-intimate partners.
- *Found guilty at trial:* Of those cases resolved at trial, those accused of killing intimate partners were more likely to be found guilty at this stage than those accused of killing non-intimate partners.
- *Overall conviction:* Accused persons who killed intimate partners were significantly more likely to be convicted overall than accused persons who killed victims with whom they shared more distant relationships. This finding is likely due, in large part, to the greater likelihood that they are also more likely to plead guilty.

Given that there were no differences in the treatment of these two types of accused persons at the sentencing stage, these results provide support for the argument that in order to understand criminal case processing, researchers need to look at more than a single stage or decision-making

point. In fact, if this analysis had focused exclusively on sentencing, important differences in the treatment of the accused at these earlier stages in the process would have been obscured. The next section briefly examines the independent effects of time on criminal justice outcomes before looking at the role of intimacy over time in criminal law.

4.3 What are the effects of time on the dispositions of homicide cases?

As already noted, a number of changes have occurred in recent decades with respect to the treatment of violence within the criminal justice system and many of these changes have targeted intimate violence. Before examining what changes have occurred over time in the role of intimacy in criminal law, this section examines the independent effects of time on criminal justice outcomes. Table 4.8 demonstrates that there have been significant changes over time in the processing of homicide cases generally at various stages. The most significant time period appears to be the second period of the study – from 1984 to 1996 – the years following the policy changes with respect to pro-charging and pro-prosecution policies. More specifically, using the first period of the study – 1974 to 1983 – as the reference category, Model 2 shows that homicide cases processed between 1984 and 1996 were significantly less likely to be resolved at trial. In other words, guilty pleas were more likely during this period than in the earlier period. In addition, Model 3 showed that, among those cases resolved at trial, accused persons whose cases were processed in the second period were more likely to be found guilty at trial than accused persons in the first time period. Finally, with respect to conviction, Model 5 showed that accused persons whose cases were dealt with during the period 1984 and 1996 were more likely to be convicted overall and, based on Model 6, they were more likely to be convicted of murder (rather than manslaughter) than accused persons whose cases were heard during the early period of the study. The more recent time period – 1997-2002 – also differed significantly from the earlier time period in the processing of homicide cases. First, cases processed during the more recent period were more likely to result in a murder conviction compared to cases processed during the early period of the study. Second, cases in the more recent period were likely to result in slightly longer sentences for the accused than those in the early period of the study.

4.4 Have the effects of intimacy changed over time?

So far, the analysis has demonstrated that intimacy does appear to matter in criminal justice decision-making, in particular, at the earlier stages of the criminal process. Moreover, criminal justice responses to violent crime have changed somewhat over time. However, as discussed earlier, many of the legislative and policy changes during the past 30 years have specifically targeted the way intimate violence is treated within the criminal justice system. Therefore, it may be that the role of intimacy in criminal law has changed over time as a result. To examine this, the treatment of accused persons who killed intimate partners is compared to the treatment of those who killed non-intimate partners in three separate time periods that parallel significant changes in law and/or policy as discussed above.³⁴

³⁴ One dependent variable – type of acquittal – is omitted from this analysis because there were too few cases for analysis.



Table 4.9 shows bivariate patterns for the three time periods, demonstrating that there have been some changes in the role of intimacy in criminal law over time. First, between and including 1974 and 1983 – that period of time before any significant legislative and/or policy changes occurred – accused persons who killed intimate partners were significantly less likely to be charged with first-degree murder (26 percent compared to 37 percent) and significantly less likely to be convicted of the more serious charge of murder (21 percent compared to 40 percent) than accused persons in cases of non-intimate partner homicide. In contrast, these differences were not evident in the second period – 1984 to 1996 – after pro-charging and pro-prosecution policies were implemented. In fact, during this period, those who killed intimate partners were now significantly more likely to be convicted of murder than those who killed non-intimate partners (50 percent compared to 37 percent, respectively).

| TABLE 4.9 | | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|---------------------|-----------------|---------------------|-----------------|---------------------|
| BIVARIATE ASSOCIATIONS FOR TYPE OF HOMICIDE AND CRIMINAL JUSTICE OUTCOMES FOR THREE TIME PERIODS, REDUCED SAMPLE, TORONTO, 1974-2002 | | | | | | |
| | <i>Year case entered court</i> | | | | | |
| | 1974-1983 | | 1984-1996 | | 1997-2002 | |
| | (N=337) | | (N=481) | | (N=96) | |
| | <i>Intimate</i> | <i>Non-intimate</i> | <i>Intimate</i> | <i>Non-intimate</i> | <i>Intimate</i> | <i>Non-intimate</i> |
| Criminal Justice Outcome | | | | | | |
| First-degree murder charge | 26%* | 37% | 40% | 39% | 50% | 35% |
| Case sent to trial | 61% | 65% | 46% | 54% | 55% | 60% |
| Found guilty at trial | 48% | 54% | 78%* | 64% | 82% | 59% |
| Likelihood of conviction | 68% | 70% | 90%** | 80% | 90%* | 70% |
| Convicted of murder | 21%** | 40% | 50%* | 37% | 68% | 44% |
| Sentenced to federal institution | 70% | 76% | 85% | 87% | 94% | 84% |
| Length of sentence | 12 years | 10 years | 10 years | 9 years | 12 years | 10 years |

Some other changes at the bivariate level were also evident in the later periods of the study. For example, while there were no differences in the rate at which the two types of accused were found guilty at trial in the early period, accused persons in intimate partner homicide cases were more likely to receive a verdict of ‘guilty’ in the second period than those who killed non-intimate partners (78 percent compared to 64 percent respectively). With respect to the overall likelihood of conviction, while there was no difference in treatment between the two types of accused in the early period, both the second and third time period show that accused persons who killed intimate partners were significantly more likely to be convicted overall than those charged with killing non-intimate partners (90 percent compared to 80 percent between 1984 and 1996; 90 percent compared to 70 percent between 1997 and 2002).

Again, however, it is important to control for other factors when isolating the independent effects of intimacy in criminal law over time. In this part of the analysis, because of the small number of cases in the latter period, the second and third period are collapsed together so the later time period now covers 1984 to 2002. This more recent period is compared to the earlier period of the study – 1974 to 1983. Table 4.10 demonstrates that, when other factors are controlled, the role of intimacy in criminal law has changed over time, but the patterns are different than that found in

the bivariate analysis. For example, at the initial charging stage, when control variables were introduced, there were no longer any differences in the treatment of the two types of accused in the severity of the charge laid. However, when looking at whether the case was sent to trial, results show that accused persons in cases of intimate partner homicide were less likely to have their cases sent to trial (i.e. they were more likely to plead guilty) than accused persons in non-intimate partner homicides in both periods. Of those cases sent to trial, accused persons in intimate partner homicides were more likely to be found guilty at trial compared to those who killed non-intimate partners in the more recent period (see Box 6).



Box 6. Accused persons who stood trial: Convicted on reduced charge

Case #9425

Fishermen found the female victim's beaten and strangled body in the river. There were slash wounds to her hands and cuts to her legs and vaginal area. A witness testified that he saw the male accused stuffing the body of a woman into the trunk of his car, parked outside the balcony of the victim's apartment. It was alleged that the accused and the victim had taken out joint insurance policies on one another. They were apparently going to go into business together when she returned from her home country where she was to be married one week after her body was found. *The accused was charged with first-degree murder, but found guilty at trial of second-degree murder and sentenced to 16 years in prison.*

Case 8311

The female victim and her brother were approached by the male accused outside a tavern where he accused them of stealing an item of jewelry from his girlfriend. They argued about the alleged theft and a shoving match developed between the accused and the victim's brother. As the victim was trying to intervene between them, the accused pulled out a handgun and fired. The victim suffered a shot to the face. The accused fled after the shooting, but was later arrested. The accused claimed that she was not the intended victim. *The accused was charged with first-degree murder, but he pleaded not guilty and his case was sent to trial. He was found guilty of manslaughter and sentenced to three years.*

Case #8020

The male accused in this case stabbed the female victim 14 times in the laundry room of her apartment building where the brother of the accused also lived. The accused, armed with a butcher knife, allegedly had planned to rob the coin-operated washing machines in the public laundry room. It was here that he encountered the victim. The accused had recently been released from prison after serving a sentence for attempted murder. He allegedly had mental problems for which he had received some outpatient treatment. Physical evidence tied the accused to the killing. *The accused was charged with first-degree murder, but found guilty at trial of second-degree murder and sentenced to the maximum 25 years' imprisonment before parole eligibility.*

Case #7920

The female victim and the male accused had recently moved to Canada from Jamaica where they had been married. The accused had previously been in Canada on a visitor's permit, but he had returned to Jamaica three months before the killing to marry the victim. They were experiencing difficulty adjusting, on the day of the killing, they had been arguing over some immigration documents that they needed. The argument escalated and the accused brought out a knife. The victim's teenage daughter tried to intervene, but was unsuccessful, getting slashed in the process. The accused stabbed the victim 23 times then slashed his own throat, but his injuries were not fatal. Police were called to disarm the accused. Both the police who responded to the call and the victim's daughter witnessed the incident. *The accused was charged with first-degree murder, but he pleaded not guilty. His case went to trial and he was found guilty of second-degree murder and sentenced to life and the minimum mandatory of 10 years.*

Case #7850

Shortly after the female victim and the male accused were married, the accused apparently discovered that his wife did not love him and thought that she had only married him so he could sponsor her as a landed immigrant. They separated at this point and the accused proceeded to report the victim to the immigration authorities. On the day of the killing, the accused went to the victim's apartment in the hopes of reconciliation, but a fight broke out between them. He claims that the victim attacked him with a knife, but he disarmed her. She then struck him with a glass jug, they struggled and she was injured in the process. Evidence showed that she had been stabbed a dozen times. The accused later turned himself in to the police. *The accused was charged with first-degree murder, but he pleaded not guilty to this charge. His case was sent to trial where he was found not guilty of murder, but guilty of manslaughter and sentenced to six years.*

Case #9406

The female victim had just left her home and was walking to work early in the morning when she was chased down by the accused, her estranged husband. Using a rifle, he fired at the victim as she attempted to run away. She eventually fell to the ground. The accused approached the victim while she was lying on the ground, firing several more shots into her. In total, he shot the victim five times in the back of the head, in the arm and shoulder. After putting the rifle back in his car, the accused walked to the nearest house and asked them to call the police. He confessed as soon as the police arrived and was arrested. It was alleged that the accused had been stalking his ex-wife ever since their separation. The police were called on several occasions to the couple's home for domestic disputes, but the victim would not lay charges. *The accused was charged with first-degree murder, but found guilty at trial of second-degree murder and sentenced to 15 years.*

Case #9314

The female victim and the male accused had broken up a few months prior to the killing, but the accused 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 the accused and so she was only going to open her car window so he could put the money through to her. Later that day, the accused pulled up to a convenience store, shouting to employees that a stranger had stabbed himself and the victim as they were sitting in the car. The police were notified. The accused had superficial stomach wounds that were thought to be self-inflicted. 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 accused had stabbed her. *The accused was charged with first-degree murder, but found guilty at trial of second-degree murder and sentenced to the minimum of 10 years imprisonment.*



TABLE 4.10
MULTIVARIATE ANALYSIS EXAMINING CRIMINAL JUSTICE OUTCOMES BY TYPE OF HOMICIDE FOR THREE TIME PERIODS, REDUCED SAMPLE,
TORONTO, ONTARIO, 1974-2002

| | First degree murder charge | | Case sent to trial | | Found guilty at trial | | Overall conviction | | Murder conviction | | Type of sentence | | Length of sentence |
|--------------------|----------------------------|------|--------------------|------|-----------------------|------|--------------------|------|-------------------|------|------------------|------|--------------------|
| | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> |
| Time Period | | | | | | | | | | | | | |
| 1974-1983 | | | | | | | | | | | | | |
| Intimate partner | -.60 | .55 | -1.25** | .29 | -.43 | .65 | .01 | 1.01 | -2.22* | .11 | 1.31 | 3.71 | -.47 |
| | (.46) | | (.47) | | (.54) | | (.45) | | (.88) | | (.79) | | (.94) |
| 1984-2002 | | | | | | | | | | | | | |
| Intimate partner | -.61 | .54 | -.76* | .47 | 1.85** | 6.33 | 2.03*** | 7.60 | .31 | 1.36 | -.87 | .42 | -.60 |
| | (.32) | | (.30) | | (.53) | | (.46) | | (.44) | | (.69) | | (.50) |

^a Non-intimate partner homicide is the reference category for both time periods.

Note: All control variables are included in the above models. Standard errors are in parentheses. *p<.05 **p<.01 ***p<.001

When examining the overall likelihood of conviction in the more recent period, accused persons in cases of intimate partner homicide were more likely to be convicted overall than those in non-intimate partner homicides. With respect to severity of conviction, an examination of the early period shows that cases of intimate partner homicide were less likely to result in murder convictions than cases of non-intimate partner homicide. In the latter period, however, this difference in treatment is no longer evident. Consistent with the analysis of the entire time period, there were no differences in treatment at the sentencing stage in either the early or more recent periods.

In summary, upon examining the effect of intimacy in criminal law over time, it appears that there have been some changes in the treatment of accused persons in intimate partner homicide compared to non-intimate partner homicide. The key findings are as follows:

- *Case sent to trial:* Accused persons in intimate partner homicides were less likely than accused persons in non-intimate partner homicides to have their cases resolved at trial in both periods. Put another way, guilty pleas appear to remain more common in cases of intimate partner homicides than in cases of non-intimate partner homicides.
- *Found guilty at trial:* Of those cases resolved at trial, those accused of killing intimate partners were more likely to be found guilty at trial in the more recent period than those accused of killing non-intimate partners. This was not the case in the early period.
- *Overall conviction:* Given that accused persons in intimate partner homicides were more likely to plead guilty and more likely to be found guilty at trial than accused persons in non-intimate partner homicides, their likelihood of conviction overall was also greater than the comparison group in the more recent period.
- *Murder conviction:* Accused persons in cases of intimate partner homicide were less likely to be convicted of murder in the early period of the study. However, this was not the case in the more recent period.

4.5 Introducing gender: The separate and combined effects

While the key objective in this study is to examine the role of intimacy in criminal law and its effects over time, previous research has shown that intimacy and gender are intricately linked in crimes of interpersonal violence. Recall that females usually victimize and are victimized by family members, especially male intimate partners, while males more often victimize and are victimized by other males, strangers or otherwise. In addition, as noted above, gender of the accused and the victim has also been shown to affect court outcomes in cases of violence. As such, isolating the distinctive effects of intimacy on criminal justice outcomes requires that the gender of *both* the accused and the victim be taken into account. Below, the separate and combined effects of gender on outcomes in Toronto homicide cases are described.

Looking back at the separate, independent effects of gender, Table 4.8 shows that the gender of the accused was important in determining outcomes at several stages of the criminal process. First, of those cases sent to trial, Model 3 shows that male accused were more likely to be found



guilty at trial than female accused. Moreover, Model 5 demonstrates that male accused were more likely to be convicted overall than female accused and, as shown in Model 6, they were also more likely to be convicted of the more serious charges of either first- or second-degree murder than females. Finally, Model 7 shows that male accused were more likely to receive a federal sentence compared to female accused. The gender of the victim was also an important determinant at all but one stage of the criminal justice process. First, if the victim was male, the accused was less likely to be charged with first-degree murder (Model 1) and less likely to have their case resolved at trial (Model 2) compared to those who killed female victims. Second, if the victim was male, of those acquitted of their crimes (Model 4), the accused was less likely to be found not criminally responsible by reason of mental disorder than when the victim was female. Third, those accused of killing male victims were more likely to be convicted overall (Model 5), but less likely to be convicted of murder (Model 6) than those accused of killing female victims. Finally, with respect to sentencing, those who killed male victims were less likely to be sentenced to a federal institution (Model 7) and received shorter sentences (Model 8) than those accused of killing female victims.

Based on the above, then, it is clear that both the gender of the accused and the gender of the victim are important factors in determining criminal justice outcomes. Focusing on inter-sexual homicides only,³⁵ the combined effects of gender and type of relationship on criminal justice outcomes shed some additional light on the association between intimacy and criminal law. Two comparisons are made below: First, looking at each type of inter-sexual homicide, outcomes in intimate and non-intimate partner homicides are compared. Second, looking at the type of homicide (distinguished by victim-accused relationship), outcomes in male-on-female and female-on-male killings are compared.

Table 4.11 shows that victim-accused relationship is associated with criminal justice outcomes in homicide cases involving male offenders and female victims, at least at the bivariate level. That is, within that category of inter-sexual homicide, five of the seven outcomes were significantly different, depending on the type of relationship that existed between the accused and the victim. For example, male accused who killed female intimate partners were significantly less likely to be charged with first-degree murder than male accused who killed females with whom they did not share an intimate relationship (35 percent and 51 percent). Consistent with the treatment of intimate partner homicide generally, male-on-female intimate partner homicides were less likely to be resolved at trial compared to male-on-female non-intimate partner homicides (54 percent and 78 percent respectively). Similarly, the last three decision-making stages also showed different treatment – men who killed female intimate partners were less likely to be convicted of murder (47 percent to 71 percent), less likely to receive a federal sentence (87 percent to 96 percent) and received shorter sentences (by about five years) than males who killed females who were not their intimate partner. In contrast, looking at homicides in which female accused persons killed male victims, there were no significant differences in criminal justice outcomes across the two relationship types, however, the lack of significant associations here may be due to the smaller sample sizes.

³⁵ Inter-sexual homicides are those that take place between genders (male-on-female or female-on-male homicides) rather than within a gender (male-on-male; female-on-female). This part of the analysis focuses on inter-sexual homicides only because there were only 11 cases of intimate partner homicide that involved male couples and no identified cases of same-sex female intimate partner homicide.

| TABLE 4.11: CRIMINAL JUSTICE OUTCOMES FOR INTER-SEXUAL HOMICIDE BY TYPE OF VICTIM-ACCUSED RELATIONSHIP, REDUCED SAMPLE, TORONTO, ONTARIO, 1974-2002 | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-------|----------------------|-------|
| | Gender combination of accused and victim | | | |
| | Male-female homicide | | Female-male homicide | |
| | Intimate | Other | Intimate | Other |
| Criminal justice outcome^a | | | | |
| First degree murder | 35%** | 51% | 22% | 19% |
| Case sent to trial | 54%*** | 78% | 42% | 60% |
| Found guilty at trial | 70% | 58% | 35% | 40% |
| Overall conviction | 84% | 66% | 71% | 64% |
| Murder conviction | 47%** | 71% | 6% | 15% |
| Federal sentence | 87%* | 96% | 51% | 63% |
| Length of sentence ^b | 10*** | 15 | 4 | 5 |

Note: * $p < .05$ ** $p < .01$ *** $p < .001$

^a One criminal justice outcome – type of acquittal – is not included here because there were too few cases in some cells for analysis.

^b Length of sentence in years.

Turning to Table 4.12, within each type of homicide, the treatment of male and female accused persons are compared, demonstrating that the gender combination of the accused and the victim matters for both types of homicides. Looking first at cases of intimate partner homicide, male accused receive different treatment than female accused in four of the eight outcomes. More specifically, compared to females who kill male partners, males who kill female partners are more likely to be found guilty at trial (70 percent compared to 35 percent), more likely to be convicted overall (84 percent to 71 percent), more likely to be convicted of murder (47 percent to 6 percent), more likely to receive a federal sentence (87 percent compared to 51 percent) and, finally, to be sentenced to a longer term of imprisonment (by about six years). Some of this variation likely reflects the different contexts in which male and female offenders kill their intimate partners. For example, research has shown that men who kill female partners have often abused the victims prior to the homicide whereas male victims of intimate partner killings have frequently abused the female accused (DOJ, 2003).³⁶ Within the non-intimate partner category of homicides, different treatment for males and females was also evident. Male accused persons were more likely to be charged with first-degree murder (51 percent compared to 19 percent) and more likely to have their cases sent to trial than female accused (78 percent compared to 60

³⁶ Findings from the Department of Justice report are based on case law and, thus, need to be interpreted cautiously because they comprise reported cases only and this is not necessarily a representative sample. However, social science research has consistently shown that men and women who kill intimate partners usually do so for different reasons. For example, two well-documented findings in violence research are, first, that intimate partner killings are commonly the culmination of ongoing violence in a relationship, often male-perpetrated violence (Gartner et al, 1999; Campbell, 1992) and, second, that there are important motivational and situational differences between men's and women's involvement in intimate partner homicide (Gartner et al, 1999; Silverman & Kennedy, 1987). That is, women are more likely to kill their intimate partners after prolonged abuse and when they fear continued or more serious violence against themselves or their children and evidence of this may reduce their culpability in law. In contrast, men are more likely to kill female partners who are trying to leave the relationship or have already left and that may act to increase their culpability. For example, Dawson (2003a) found that men who killed female partners from whom they were estranged were treated more severely in the courts than men who killed female partners with whom they were still intimate.



percent). Furthermore, compared to females, male accused were more likely to be convicted of murder (71 percent compared to 15 percent), more likely to receive a federal sentence (96 percent compared to 63 percent) and, finally, more likely to be sentenced to a longer term of imprisonment (15 years compared to 5 years).

TABLE 4.12
CRIMINAL JUSTICE OUTCOMES FOR TYPE OF HOMICIDE BY GENDER COMBINATION OF THE HOMICIDE, REDUCED SAMPLE, TORONTO, ONTARIO, 1974-2002

| | Type of victim-accused relationship | | | |
|---------------------------------------------|-------------------------------------|-------------|----------------------|-------------|
| | Intimate partner | | Non-intimate partner | |
| | Male-female | Female-male | Male-female | Female-male |
| Criminal justice outcome^a | | | | |
| First degree murder | 35% | 22% | 51%*** | 19% |
| Case sent to trial | 54% | 42% | 78%* | 60% |
| Found guilty at trial | 70%** | 35% | 58% | 40% |
| Overall conviction | 84%* | 71% | 64% | 66% |
| Murder conviction | 47%*** | 6% | 71%*** | 15% |
| Federal sentence | 87%*** | 51% | 96%*** | 63% |
| Length of sentence ^b | 10 | 4 | 15*** | 5 years |

Note: * p < .05 ** p < .01 *** p < .001

^a One criminal justice outcome – type of acquittal – is not included here because there were too few cases in some cells for analysis.

^b Length of sentence in years.

Finally, controlling for other legal and extra-legal factors, the multivariate analysis (not shown here) demonstrates that the gender combination of the accused and the victim remained significantly associated to criminal justice outcomes, primarily at the later decision-making stages. Specifically, compared to females who killed males, male accused persons who killed female victims, regardless of relationship type, were more likely to be convicted of murder, more likely to receive a federal term of imprisonment and to receive longer sentences. Because some important legal variables were not available for analysis, these findings should not be construed as support for more lenient treatment of female accused compared to male accused. This is discussed in more detail in the discussion section.

4.6 Beyond intimacy: What else matters in the disposition of homicide cases?

A number of other factors were found to be relevant in the disposition of homicide cases in Toronto based on results shown in Table 4.8. With respect to legal factors, as one would expect, this group of variables was significantly associated with a number of criminal court outcomes. For example, the prior criminal record of the accused was significantly associated with the majority of decision outcomes. In particular, accused persons who had a prior record – violent or non-violent – were less likely to have their cases resolved at trial, but were significantly more likely to be found guilty at trial if it proceeded to that stage. Similarly, a prior criminal record also increased the likelihood that an accused person would be convicted overall and increased the likelihood of a murder conviction. If an accused had a prior record for violent crimes only, they were more likely to be charged with first-degree murder more likely to receive a federal sentence

and, finally, were sentenced to a longer period of imprisonment than those with no prior record or a record for non-violent offences.

As expected, earlier decisions were also found to affect later outcomes, highlighting the importance of controlling for these decisions when examining later stages of the criminal justice process. For example, an accused charged with a more serious offence was more likely to be found guilty at trial, more likely to be convicted overall and more likely to be convicted of murder. Those who were convicted of more serious offences were also more likely to receive a federal sentence and, as a result, a longer term of imprisonment before parole eligibility than those who were convicted of less serious charges (i.e. manslaughter). There were also a number of interesting associations among extra-legal factors and outcomes at various stages. Table 4.13 summarizes the significant positive and negative associations among all the variables included in the analysis and the criminal justice outcomes.³⁷

³⁷ A positive sign means that the presence of a particular characteristic (e.g. intimate partner relationship) increased the likelihood of a particular outcome (e.g. found guilty at trial; see Model 3). A negative sign indicates that a particular characteristic (e.g. intimate partner relationship) decreased the likelihood of a particular outcome (e.g. first-degree murder charge; see Model 1). Where 'n/a' is noted, this means that the variable was not included in the model. Full results are in Appendix D.



TABLE 4.13:
SUMMARY OF SIGNIFICANT ASSOCIATIONS FOR MULTIVARIATE ANALYSES EXAMINING THE VICTIM-ACCUSED RELATIONSHIP, TIME PERIOD, GENDER AND CONTROL VARIABLES BY EIGHT CRIMINAL JUSTICE OUTCOMES, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002

| | 1 st degree charge | Case sent to trial | Guilty at trial | NCRMD acquittal | Overall conviction | Murder conviction | Federal sentence | Length of sentence |
|---------------------------------------|-------------------------------|--------------------|-----------------|-----------------|--------------------|-------------------|------------------|--------------------|
| | Model 1 | Model 2 | Model 3 | Model 4 | Model 5 | Model 6 | Model 7 | Model 8 |
| Victim-accused relationship | | | | | | | | |
| Intimate partner | - | - | + | | + | | | |
| Gender | | | | | | | | |
| Male accused | | | + | | + | + | + | |
| Male victim | - | - | | - | + | - | - | - |
| Time period | | | | | | | | |
| Second period: 1984-1996 | | - | + | | + | + | | |
| Third period: 1997-2002 | | | | | | | | |
| Legal variables | | | | | | | | |
| Accused has non-violent record | | - | + | | + | + | | |
| Accused has violent record | + | - | + | | + | + | + | + |
| Severity of initial charge/conviction | n/a | n/a | + | + | + | + | + | + |
| Case resolved at trial | n/a | n/a | n/a | n/a | n/a | + | + | + |
| Extra-legal variables | | | | | | | | |
| <i>Characteristics of the accused</i> | | | | | | | | |
| Accused is white | | | | | | | | |
| Age of accused | | | | + | - | - | | |
| Accused is employed | | | + | | | | + | |
| Accused is married | | | | - | | | | |
| Accused has psychiatric history | | | - | + | - | | + | |

| TABLE 4.13: SUMMARY OF SIGNIFICANT ASSOCIATIONS FOR MULTIVARIATE ANALYSES EXAMINING THE VICTIM-ACCUSED RELATIONSHIP, TIME PERIOD, GENDER AND CONTROL VARIABLES BY EIGHT CRIMINAL JUSTICE OUTCOMES, TOTAL SAMPLE, TORONTO, ONTARIO, 1974-2002 | | | | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------|-----------------|-----------------|--------------------|-------------------|------------------|--------------------|
| | 1 st degree charge | Case sent to trial | Guilty at trial | NCRMD acquittal | Overall conviction | Murder conviction | Federal sentence | Length of sentence |
| | Model 1 | Model 2 | Model 3 | Model 4 | Model 5 | Model 6 | Model 7 | Model 8 |
| <i>Characteristics of the victim</i> | | | | | | | | |
| Victim is white | | | | | | | | |
| Age of victim | | | | | | | | |
| Victim is employed | + | | | + | | | | + |
| Victim is married | | | | + | | | | |
| Victim has prior criminal record | | | | | | | | |
| <i>Characteristics of the incident</i> | | | | | | | | |
| Homicide occurred in public | + | | | - | | | | |
| Gun used in homicide | + | + | | | | | | |
| Victim drinking/using drugs | - | - | | - | + | | | |



5.0 Discussion and Conclusion

The treatment of intimate partner violence by criminal justice actors has been a controversial social issue, particularly since the early 1970s when feminist and grassroots organizations drew attention to the prevalence of intimate violence and, in particular, violence against women by male intimate partners. Since that time, the criminal justice system and its representatives have been criticized for their treatment of this type of violence and, as a result, numerous changes have taken place both within the community and in the criminal justice system with respect to how social and legal institutions respond to intimate violence. Despite the increased attention, little empirical research in Canada or any other country has sought to examine how the criminal justice processing of violent crime and, in particular, responses to violence between intimates has changed over time as a result. As a first step toward this goal, this study focused on two research questions: (1) Do those accused of killing intimate partners receive different treatment in the criminal justice system compared to those accused of killing victims with whom they shared more distant relationships? (2) Has the role of intimacy in criminal law changed over time?

The findings in this study demonstrate that changes in the way intimate violence is treated have occurred in the criminal justice system during the past three decades, paralleling increasing public concern about intimate violence as a serious social issue. More specifically, the results presented here showed that those accused of killing intimate partners were treated differently at some stages of the criminal process compared to those who killed other types of victims. However, this differential treatment appears to have abated somewhat over time (see also Dawson, 2004). That is, what many have interpreted as more lenient treatment of intimate lethal violence by the courts was evident in the earlier period of the study, but not in the more recent period. One might tentatively conclude, then, that the role of intimacy in criminal law has changed over time, at least within this large urban jurisdiction. More definitive conclusions, however, await future research because of several limitations that have been outlined above. Moreover, the results presented here raise at least as many questions as they answer and future research that addresses these research and data limitations is required before we can achieve an adequate understanding of the role played by intimacy in criminal law. Several important questions for future research are discussed briefly below.

5.1 Intimacy and the guilty plea process

First, how do we explain the association between intimacy and the plea resolution process? What is it about cases of intimate partner homicide and/or the accused persons involved that seem to make them or their cases more amenable to plea resolutions than other types of cases? While the subject of plea resolutions or the plea-bargaining process is not new, little research exists on the subject in Canada (DOJ, 2003). Some U.S.-based research, however, describes a number of possible explanations as to why pleas may be

negotiated in particular cases. For instance, guilty pleas may occur because of the high risks often associated with trials for both the defence and the prosecution (Mather, 1979). Defence lawyers may try to reduce such risks by negotiating a plea to a reduced charge. Alternatively, the prosecution may perceive a guilty plea to be a viable option if there are mitigating circumstances surrounding the killing or if it is difficult to prove the element of intent required for a murder conviction (Mather, 1979). Moreover, it may be that when the initial charge was laid, the investigation was not complete and, thus, as more information became available, the prosecution realized that a murder charge was not appropriate nor would it be successful and, consequently, entered into a plea resolution at that point thereby securing a conviction (DOJ, 2003).

Because of the private nature of plea negotiations, however, the public has no way of knowing what has taken place or why it was deemed appropriate to accept a guilty plea in a particular case or for a particular accused (DOJ, 2003). It may be, then, that the public would be more accepting of plea resolutions if they understood more about the reasons behind them. As a result, one of the recommendations outlined in the report by the Department of Justice (2003) was that research be undertaken on the subject of plea-resolutions in homicide cases. While it was hoped that information documenting reasons for guilty pleas would be possible in this study, such information is not systematically documented in case files and, to date, case files have been the primary source of information for criminal justice researchers examining court outcomes (see Box 7 and 8). It is important to note here, though, that the compilation of documents related to the criminal processing of homicide cases (and all criminal cases) does not occur for the purposes of criminal justice research and, thus, this is not meant as a criticism of the criminal justice system or its actors. It is meant, however, to highlight that researchers need to incorporate more innovative data collection techniques that can capture the detail required for understanding the plea resolution process. As part of this, increased collaboration between criminal justice agencies and researchers is required. Until then, however, the reasons behind such decisions will remain speculative. New techniques or mechanisms for collecting criminal justice data would also help address another obstacle that is common in criminal justice research discussed next.



Box 7. Accused persons who pleaded guilty: Initial Charges

Case #9940

The male victim in this case had been drinking at a neighborhood bar earlier in the evening and, as he was walking home, he met two women in an alley. One of the women – the accused – claimed that the victim approached her and asked her for sexual favors, mistaking her for a prostitute. The female accused pushed the victim away and he fell and hit his head. He was not killed instantly and managed to flag a taxi to take him home. His family noticed his injuries and took him to the hospital where he died a few days later. Both the accused and the victim had been drinking at the time of the incident and had histories of substance abuse. *The accused was charged with manslaughter. She pleaded guilty to that charge and was sentenced to two years less one day.*

Case #9703

The male accused in this case, a paranoid schizophrenic, pushed the female victim into the path of an oncoming subway train. On the day of the killing, the accused, who was a psychiatric patient living at a group facility, had moved out of the facility on the morning of the homicide. Apparently, he had tried to get social assistance, but was told he would have to wait and was apparently frustrated by the delay. He proceeded to the subway where he later told police he had decided to push any woman who fit a certain description and happened to be on the platform into an oncoming train. He waited for two trains before he pushed the victim. *The defendant was charged with second-degree murder and pleaded guilty. He was sentenced to life in prison with no parole for 15 years.*

Case #9163

The female victim and the male accused had worked together for about six months serving refreshments to patrons at an establishment. On the day of the killing, the accused stabbed the victim in the neck during an argument over coffee. Prior to the incident, there was such hostility between the victim and the accused that management became concerned and decided that other arrangements would have to be made so they came into contact less often. On the day of the attack, when the accused arrived at work, the victim made a gesture that signified she had won their dispute. After about five minutes, the accused picked up a knife and stabbed the victim in front of witnesses. He made no attempt to escape, waiting for the police. It was alleged that both the accused and the victim had received outpatient treatment for psychiatric problems. *The accused was charged with second-degree murder, but found guilty at trial of manslaughter and sentenced to five-years.*

Case #9042

The male victim and the female accused decided to kill themselves and had left notes for their family, documenting their intentions. The female accused was to inject the male victim with an overdose of drugs and then inject herself. Adhering to their plans, she injected the victim and then herself, but she awoke later that same day to find the victim dead. The accused did not mention the victim's death when she later went to work, but a friend discovered the body the next day and notified the police. *The accused was charged with manslaughter. She pleaded guilty to that charge and was sentenced to two years less one day.*

Box 8. Accused persons who pleaded guilty: Reduced Charges**Case #8730**

The female victim in this case had suffered long-term mental problems and had frequently been an inpatient at a local psychiatric hospital where she was staying at the time of her death. On the morning of the killing, the victim came upon the male accused on the street where it was alleged by the accused that they discussed a sexual act. They proceeded into a nearby alley to have sex. Police indicated, however, that the accused had accosted the victim on the street, hauled her into the alleyway where he sexually assaulted and strangled her. The victim's face was so badly damaged that she was unrecognizable. The accused was arrested later that day as he was attempting to assault a second woman. *The accused was charged with first-degree murder, but he pleaded guilty to the lesser charge of second-degree murder and was sentenced to 12 years.*

Case #9629

The female accused and her friends arrived at a bar, but there was no seating available. The accused approached the bar, removed the male victim's belongings from one of the barstools, and threw them on the floor. An argument developed between the two and it turned into a minor shoving match before others separated them. When the victim later left the restaurant, the accused and her friends followed him outside and another confrontation developed that turned into a physical fight. During the fight, the accused produced a knife and stabbed the victim, who immediately collapsed to the ground. The accused and her friends fled the scene. A bystander called the police and witnesses later identified the accused. It was alleged that the victim was mentally handicapped and often pestered people in bars after he had been drinking. *The accused was charged with second-degree murder, but pleaded guilty to manslaughter and was sentenced to five years.*

Case #9705

On the night of the killing, the male accused had been drinking with a friend at a bar. He was depressed because a woman that he was interested in had recently rejected him. On his way home from the bar, the accused broke into the male victim's home. The victim awoke to find the accused standing at the foot of his bed. At that point, the accused crawled onto the bed and started slashing at the male victim, killing him. A female occupant tried to escape down the stairs, but the accused grabbed her, stabbing her repeatedly, but she was not fatally injured. Another male occupant called 911, but the accused heard him and fled. The accused lived in an apartment building just behind the victims' home, but they did not know each other. The accused later indicated that he had been on a three-day drinking binge, prompted by the loss of his girlfriend and indicated that he was inclined to lose his temper when he had been drinking. *The defendant was charged with first-degree murder (and attempted murder for the female victim), but pleaded guilty to second-degree murder and was sentenced to life in prison with no parole for 17 years.*

Case #9708

The male victim and the male accused were drinking at the home of the accused with some others, including the victim's brother. An argument broke out because the victim allegedly made an inappropriate gesture to the girlfriend of the accused. The argument escalated into a fight at which point the accused got a knife and stabbed the victim in the chest. When the police arrived, they found the accused with blood on his clothing standing outside the elevator in the apartment building. He told them that he had been involved in a fight and confessed to stabbing the victim. *The accused was charged with second-degree murder, but pleaded guilty to the lesser charge of manslaughter and was sentenced to seven years imprisonment beyond the one year he had already spent in pre-trial custody.*

Case #9718

The male accused and an associate went to see the male victim who was an acquaintance. The accused allegedly planned to get some money from the victim by saying he had access to a quantity of drugs for him to purchase. While there, the victim became upset with the accused and started to shove him. At the time, both were standing at the top of a set of stairs that lead to the basement. As the victim started to descend the stairs, the accused pushed him in the back, sending him down the stairs. Both the accused and his associate fled the scene. The victim's mother was home at the time and heard noises that led her to check the basement area. She found her son, bleeding and unconscious at the bottom of the stairs, and called police. *The accused in this case was charged with manslaughter. He pleaded not guilty to manslaughter, but guilty to the lesser charge of criminal negligence causing death. He received a conditional sentence of 18 months, 150 hours community service and 18 months probation.*

**Case #8436**

On the evening of the killing, both the male accused and the female victim were at a local tavern together. When the victim left, the accused followed her out to the rear of a nearby building where he beat her with a brick and then returned to the tavern. He later met a family member of the victim and took him to where the victim lay dead. Her clothes were disheveled and her breasts and genital area were exposed. The police were called. The accused alleged that the victim insulted him and spit on him in the bar. They were had both been drinking excessively. *The accused was charged with second-degree murder, but pleaded guilty to manslaughter. He was sentenced to five years imprisonment.*

Case #9413

Both the male victim and the female accused were allegedly drug dealers who, about one month prior to the killing, had a dispute over the price of crack. During the dispute, the victim slashed the unarmed accused. On the day of the killing, the accused lured the victim to a rooming house where the accused attacked the victim, plunging a knife into his heart. He died en route to the hospital. Witnesses indicated that Nadia had frequently threatened to kill the victim to get even with him for disfiguring her. Police recovered the weapon used by the accused in a garbage container behind the rooming house. Both the accused and the victim had been drinking the night of the killing and both had a history of substance abuse, primarily crack cocaine. *The accused was charged with first-degree murder, but pleaded guilty to manslaughter and was sentenced to 2.5 years.*

Case #9526

The male victim and the female accused had been involved romantically for about eight months. On the day of the killing, both were intoxicated when an argument broke out that lead to the accused dangling the victim over their balcony. A family member of the accused tried to intervene, but was pushed away by the accused, who then shoved the victim over the edge of the balcony to his death. When the police arrived, the accused alleged that the victim had committed suicide. Other family members eventually revealed that the accused had been responsible for the victim's death. *The accused was charged with second-degree murder, but pleaded guilty to manslaughter and was sentenced to five years.*

Case #9707

The female victim and the male accused in this case were married. The husband stabbed his wife to death while their two daughters watched. When the police arrived, they found that the accused had attempted suicide by stabbing himself in the chest, but his injuries were not fatal. In the six months prior to the killing, the victim had called the police twice to report that the accused had assaulted her. At the time of the killing, he was under a probation order to avoid contact with the victim. Earlier, assault charges had been dismissed against him when the victim failed to appear to testify. *The accused was charged with first-degree murder, but pleaded guilty to second-degree murder and was sentenced to life in prison with no parole for 13 years.*

Case #0101

On the evening of the killing, the female victim and the male accused were preparing to go to bed for the night when they began to argue. The argument went on for some time, but stopped suddenly, according to neighbors who lived nearby. Some time later, the elderly accused called a male family member. When the family member arrived at the scene, the victim was found dead as a result of a knife wound and the accused had superficial wounds to his neck. Later, at the hospital where he was treated, the accused admitted to stabbing his wife because of family problems, including the fact that she talked too much and scolded him too much. The victim allegedly suffered from dementia. *The accused was charged with second-degree murder, but pleaded guilty to manslaughter and was sentenced to 5.5 years in addition to 7.5 months of pre-trial custody.*

Case #8404

The female victim had arrived from out of the country a little over a week before the killing for an arranged marriage with the male accused. She had experienced a difficult time trying to adjust during her stay and decided to return to her home country and not follow through on the arranged marriage. The accused argued with the victim over her decision and the argument escalated to the point that the accused hit the victim and then strangled her on the day they were to be married. The accused fled, but was apprehended the same day. *The accused was charged with second-degree murder, but he pleaded guilty to manslaughter. He was sentenced to five years imprisonment.*

Case #9202

The male accused in this case was allegedly jealous and possessive with the female victim. He called her constantly at work, according to her co-workers. On the day of the killing, they argued because the victim wanted to end the relationship and she had asked the accused to move out. He got angry and stabbed her 36 times. The children were at home and witnessed the attack. After the killing, the accused telephoned a family member who notified the police. By the time the police arrived, the accused had attempted suicide. He was still conscious, however, and confessed to killing the victim after which he was taken to the hospital for treatment. Three days before the fatal incident, the police were called to the couple's address because the accused had assaulted the victim. Neighbors indicated that there were ongoing problems in the relationship and that was why the victim was trying to end it. *The accused was charged with second-degree murder, but pleaded guilty to manslaughter and was sentenced to 12.5 years.*

Case #8510

The female accused in this case had apparently become increasingly angry over a number of demands her husband was making on her, including demands for sex. On the day of the killing, the accused claims she lost control of herself, exploding in anger, striking the victim 14 times in the head with a meat cleaver. She then hid the body outside and it was not discovered until more than a week later. Before marrying, the couple had worked together at a factory in their native country. They continued to keep in touch through correspondence after the victim and his family moved to Canada. The accused came to Canada after they married. The marriage was never consummated, a fact that upset the husband and his parents. The accused 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. The accused had previously been hospitalized for psychiatric problems. *The accused was charged with first-degree murder, but pleaded guilty to manslaughter. She was sentenced to 10 years in prison.*

5.2 Assessing the role of stereotypes and interpersonal violence

Criminal law recognizes that there are different degrees of culpable homicide and therefore, there is variation in the degree of harm or accused culpability in homicide cases along a number of dimensions. Determining how to assess whether homicides (and other types of violence) are similar in both a social and a legal context (and, thus, warrant similar punishments) as well as what factors may be important when making such comparisons remains an issue. While this study was able to consider a variety of factors that may determine different degrees of harm or culpability, sufficient detail was not available for analysis on three important legal variables – premeditation, provocation and intoxication. If, as Lundsgaarde (1977) argues, the way in which criminal justice actors differentiate between lawful and unlawful homicide stems from the custom and/or culture within which such legal decisions are made, then, so too do images of what is a premeditated crime, what constitutes victim provocation, or what degree of intoxication ought to reduce the culpability of an accused. The question that needs to be addressed in future criminal justice research, then, is what are reliable indicators of these variables and how can this data be systematically collected in future studies?

Traditionally, data on these legal variables has been largely absent from empirical research on the criminal justice process despite the fact that they play an integral role in the processing of violent crime. Two related reasons for this may be that, first, there is little guidance about how we should measure these variables (i.e. should social science indicators adhere to legal notions of what is meant by these factors and, if not, what are some valid indicators that can be used by researchers) and, second, the number of obstacles that are often faced when attempting to collect information about these variables, including the amount of time required to collect detailed information for individual cases. Whatever the reason, criminal justice researchers need to begin to search for more systematic ways to collect this data, not only because of the legal relevance of



these factors, but because of the way in which these concepts have become associated with common stereotypes about interpersonal violence.

Recall that research has shown that crimes between intimates are more often perceived to involve some degree of victim responsibility than crimes that occur between non-intimates (Rapaport, 1991; Riedel, 1987; Wolfgang, 1957). At one end of the continuum of victim responsibility is the legal notion of provocation that can act to mitigate the culpability of an accused, leading to more lenient punishments (see Miethe, 1987; Williams, 1976). If intimate violence is more often perceived to be victim provoked, then such cases may be more likely to benefit from this defence. But is it the case that victim provocation is more likely in cases of intimate partner homicide compared to other types of homicide or does this represent a common stereotype that exists both in society and within the criminal justice system that has yet to be supported by research? To answer this question, one first needs to decide what constitutes victim provocation and, then, to develop measures that allow for consistent data collection to document whether provocation is more common in violent incidents that occur between intimates. Such a goal may be difficult, however, given that the legal notion of provocation is one of the most controversial within criminal law with the result that there is little agreement as to what should constitute provocation. To date, there has been no systematic examination of the validity of this and other stereotypes that surround intimate violence and this is problematic given the potential role of these stereotypes in framing expectations about and responses to violent crime. Two additional examples illustrate this point further.

Conceptualizing intent and premeditation. Two of the most critical distinctions in law related to homicide are, first, the difference between murder and manslaughter and, second, the difference between first- and second-degree murder. More specifically, it is generally the presence or absence of the specific intent to kill that distinguishes between murder and manslaughter and, within the category of murder, it is often the presence or absence of premeditation (i.e. planning and deliberation) that often determines whether an accused will be charged with first- or second-degree murder.³⁸ Simply put, if a homicide is premeditated, it is seen as the worst kind of killing in criminal law. The rationale for this distinction is that there is an added “moral culpability to a murder that is planned and deliberate that justifies a harsher sentence...by virtue of planning and deliberation with relation to the taking of a human life” (Grant et al., 1998: 7-8; s.214(2), s.231(2) CCC). The meaning of the terms ‘planning and deliberation’ has been the subject of extensive discussion in case law, but has been absent in criminal justice research that has sought to understand why certain sanctions or punishments are imposed in particular cases. Why are intent and premeditation important in understanding how intimate partner and non-intimate partner homicides are treated in criminal law?

Recall that killing out of anger or some other strong emotion can often mitigate an accused person’s culpability because his or her emotion is assumed to undermine their rational capacity for planning and deliberation. As a result, criminal justice actors may treat ‘hot-blooded’ crimes more leniently because offenders are assumed to lack the ability to plan or deliberate or, at the very least, to form intent (Rapaport, 1994). Because hot-blooded crimes (often referred to as

³⁸ As noted above, certain types of killings regardless of whether they were premeditated can also result in first-degree murder charges including the death of a police officer, or prison personnel while on duty and homicides that occur in the commission of some other criminal act(s) such as kidnapping or sexual assault (see s.222(4) CCC).

‘crimes of passion’) are often seen to be synonymous with killings that occur between intimate partners, those cases may be treated more leniently as a result. The important question, then, is whether intimate partner homicides are more ‘hot-blooded’ than other types of homicide and, second, whether there is less evidence of premeditation in such cases as a result. To date, there has been no systematic examination of these issues although feminist theorists and researchers have long challenged the stereotype of intimate violence as acts that arise solely out of passion or anger. Related to this, one qualitative Australian study showed that “the majority of men who kill their wives have given careful thought to the murder they are going to perform... Many husbands who kill their wives know exactly what they are doing, and if anything express a sense of relief once the goal, the wife’s death, has been attained” (Polk, 1994: 193). Further, while the degree of intent varied, this study found that in the majority of cases involving men who killed their female intimate partner, there was “some clear element of prior planning in the events leading up to the death” (Polk, 1994: 31). Therefore, an important consideration for future research is how the legal notion of intent or, at the very least premeditation, might explain the differential treatment of intimate and non-intimate partner homicide.

What is ‘too intoxicated?’ Media coverage of the Sheppard case in Prince Edward Island reported that the residents there were upset by the reduction in charge from second-degree murder to manslaughter (DOJ, 2003). This decision was made, however, because criminal justice decision-makers believed that it would not be possible to secure a conviction of murder because the offender was too intoxicated to form intent (DOJ, 2003). According to Grant et al. (1998), “the criminal law has traditionally had a rather mixed reaction to the presence of alcohol or drugs” (p. 6-28) with self-induced intoxication generally not appearing to be a mitigating factor (DOJ, 2003). For criminal justice researchers who want to better understand the criminal process, questions related to intoxication and how it is perceived both legally and culturally become important. For example, what does it mean to be ‘too intoxicated’ in criminal law? In other words, what threshold of intoxication is required to preclude an accused person’s ability to form intent? Related to this, how do researchers measure the level of intoxication of the accused? Where do researchers get information on an accused person’s level of intoxication? Are there cultural expectations about what types of behavior might be ‘excused’ by one’s level of intoxication and how might those expectations play out in the criminal justice system based on the type of victim-accused relationship?

In summary, prior research has shown that various types of victim-accused relationships elicit ‘crime scripts’ about violent incidents and those individuals involved that may lead to more lenient treatment of particular offenders (Miethe, 1987; see also Sudnow, 1965).³⁹ As already noted, this may be a problem if little systematic research has actually examined the validity of these scripts (or related stereotypes) in relation to intimacy and violence because of their potential impact on criminal justice decision-making. The difficulty in doing such research again stems from the absence of such information in the types of official documents that researchers generally use when collecting data. In addition, variation in the amount and type of information systematically noted in official documents for individual cases means that different types of information will be available for some cases, but not for others. As a result, systematic and

³⁹ The notion of ‘crime scripts’ refers to the way in which certain characteristics of a violent incident – such as the victim-accused relationship – prompt images or expectations about how the incident likely occurred, the contribution or role of those involved in the incident and the chances of a successful prosecution.



reliable comparisons are not always possible due to missing data. Again, this is largely due to the fact that the collection and production of documents for criminal case files do not occur for the purpose of criminal justice research. As such, new data collection techniques or methodologies need to be incorporated to examine the criminal processing of cases and, again, this involves increased collaboration between criminal justice actors and researchers.

5.3 Linking legislation, policy and court practices: Can it be done?

Finally, and perhaps most important, how can one explain the patterns documented in this study? One of the strengths of statistical analyses of large data sets is that researchers are able to discern patterns and relationships among a number of variables. A methodological limitation to this type of research, however, is that sufficient detail is often not available to understand why it is that those patterns exist. For instance, as already noted, while this study demonstrated that plea resolutions were more common in cases of intimate partner homicide, sufficient information was not available to document *why* this occurs. Similarly, there was no information on the judicial reasoning practices that may underlie sentence outcomes because Crown attorney files do not contain judicial reasons for sentence and, even if other sources were drawn upon, sentencing transcripts may not be consistently available for all cases. The lack of information on the reasoning practices that underlie criminal justice decisions, then, has been identified as one of the major shortcomings of studies on criminal justice outcomes generally (Daly, 1994; Steffensmeier et al., 1993).

Changes have occurred, though, in the way intimacy is treated within the courts and these changes appear to parallel, to some extent, the increasing concern about and awareness of intimate violence as a serious social issue. Is it possible to conclude from these results that legislative changes and/or policies implemented in the past three decades in response to these increasing concerns have made a difference in the way intimate violence is treated in the criminal justice system? Have ongoing challenges by feminists to the traditional stereotypes that surround intimacy and interpersonal violence been successful in changing the way these crimes are perceived by criminal justice actors and members of the public at large? It is usually the case, and necessarily so, that changes in or the evolution of criminal justice legislation (and all legislation in general) receives widespread political support and this is no less true for legislative and policy changes that have targeted intimate violence. However, what is also often the case is that only a small body of research, if any, seeks to assess the efficacy of such changes in addressing the problem or issue that they were meant to target (Dugan, 2003). Similarly, criminal justice policies, at least with respect to sentencing, have evolved largely independent of research in Canada and elsewhere (Roberts, 1999). And, while the gulf between research and policy may have diminished somewhat in recent decades, there is still much work to be done in assessing the impact of these and other initiatives both on changing attitudes toward intimate violence and on reducing and preventing violence generally.

At first glance, the results presented here suggest that those who may have been skeptical of the impact of legislative and policy changes on the criminal justice processing of violent crime may have been too pessimistic. However, it was not the goal of this study nor can it be concluded based on its findings that there is a direct link between the implementation of new laws and/or policies that target the treatment of intimate partner violence in criminal law and the patterns

identified here. It does suggest, though, that such an association is possible and warrants further investigation. To do so, however, requires better criminal justice data than are currently available. In addition, adequate measures of the desired outcomes of programs and initiatives need to be developed. To date, limitations in crime-related data sources, and in particular court data, have precluded systematic analyses of particular trends and patterns in criminal justice. In fact, there is no national data source available that is able to link information on victim, accused, and offence characteristics to criminal justice outcomes in criminal cases. As such, much of what we know about determinants of criminal justice decision-making is based on single jurisdiction studies that focus on a limited period of time.

While this study, too, focuses on only one jurisdiction, it offers three advantages. First, the data used here provide unique information about the criminal justice process that is not readily available in Canada. For example, multiple decision points in the criminal justice system were examined from the initial charging stage to sentencing – the latter of which has been the focus of the majority of criminal justice research in this country. Second, because detailed information on the accused, the victim and the homicide incident was available for each case, it was possible to link important legal and extra-legal variables to criminal justice outcomes. Finally, patterns in criminal justice decision-making have been examined here for a period of close to three decades, providing the opportunity to compare court outcomes in distinct social and legal environments. Given that parallel changes have occurred across Canada and in other developed countries in response to intimate violence, it is possible that similar patterns or trends will be found in other Canadian and non-Canadian jurisdictions, but further investigation is required before such conclusions can be drawn



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Appendix A - Data Collection Instrument

CASE NUMBER _____ FILE NUMBER _____ FPSNUM _____

DATE OF CRIME _____ DATE OF DEATH _____ YEAR _____

ESTIMATED TIME OF CRIME _____ DAY OF WEEK _____

CRIME REPORTED/DISCOVERED BY _____

VICTIM INFORMATION: VSEX _____ VDOB _____ VPREG _____

V. AGE _____ V. MARITAL STATUS _____ V. # OF KIDS _____

V. EMPLOYMENT STATUS _____ V. JOBTYPER _____ V. EDUC _____

V. ILLEARN _____ V. ETHNICITY _____ V. BIRTH _____

V. CRIM RECORD _____ V. ALCOHOL/DRUG USE _____

V. SUB USE HISTORY _____ V. SUICIDE ATTEMPTS _____

V. MENTAL HEALTH HISTORY _____

OFFENDER INFORMATION: OSEX _____ ODOB _____ OFFNUM _____

O. AGE _____ O. MARITAL STATUS _____ O. # OF KIDS _____

O. EMPLOYMENT STATUS _____ O. JOBTYPER _____ O. EDUC _____

O. ILLEARN _____ O. ETHNICITY _____ O. BIRTH _____

O. CRIM RECORD _____ O. SUBUSE _____ O. SUBHIST _____

O. SUICIDE _____ O. SUICIDE METHOD _____ O. PSYCH _____

VICTIM-OFFENDER RELATIONSHIP: VOR TYPE _____

VOR LENGTH _____ IF ESTRANGED, PERIOD OF SEPARATION _____

STEPCHILDREN _____ PRIOR THREATS BY O. _____

PRIOR THREATS BY V. _____ PRIOR POLICE INVOLVEMENT _____

ANY LEGAL/SOCIAL SERVICE CONTACT _____

CIRCUMSTANCES OF KILLING: LOCATION OF CRIME _____

ATWORK _____ IF DWELLING, TYPE _____ POP DENSITY _____

OF VICTIMS _____ # OF OFFENDERS _____ REGION _____

OTHERS INJURED _____ OFFENDER INJURED _____

METHOD _____ MULTPL METHODS _____ GUNTYPE _____

MOTIVE _____ CIRCUM _____ WITNESSES _____

INTERVENTION _____ SEXUAL ASSAULT _____

MULTILATION _____ EXCESS VIOLENCE _____

COND. OF BODY _____ ATTEMPTS TO CONCEAL CRIME _____

O. REMAINED AT SCENE _____ EVID OF PREMED _____

V. PRECIPITATION/PROVOCATION _____ SELF DEFENSE _____

CRIMINAL JUSTICE INFO: ARREST DATE _____ CHARGES _____

BAIL _____ GUILTY PLEA _____ TRIAL TYPE _____ TRIAL DATE _____

TRIAL LENGTH _____ DEFENCE PUT FORTH _____

EVIDENCE _____ O. CONFESS _____

EXPERT WITNESSES _____ OTHER WIT TESTIMONY _____

CONVICTION _____ SENTENCE _____ SENLGTH _____ TIME SERVED _____

MITIGATING FACTORS _____

AGGRAVATING FACTORS _____

DISPOSITION DATE _____ CROWN REGION _____

JUDGE _____ CROWN _____ DEFENSE _____

LEGAL REP _____ TIME IN PRE-TRIAL CUSTODY _____

NARRATIVE:



| APPENDIX B - ANNUAL HOMICIDE FIGURES FOR TORONTO, ONTARIO AND CANADA AND THE TORONTO PERCENTAGE OF THE TOTAL NUMBER OF PROVINCIAL AND NATIONAL HOMICIDES, 1974-2002^A | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------|---------------------------------------|-------------------------------------|
| | Toronto | Ontario | Canada | <i>Toronto N as % of province</i> | <i>Toronto N as % of Canada</i> |
| Year | <i>N</i> | <i>N</i> | <i>N</i> | | |
| 2002 | 62 | 178 | 582 | 35% | 11% |
| 2001 | 61 | 170 | 553 | 36% | 11% |
| 2000 | 61 | 156 | 546 | 39% | 11% |
| 1999 | 49 | 162 | 538 | 30% | 9% |
| 1998 | 56 | 156 | 558 | 36% | 10% |
| 1997 | 61 | 178 | 586 | 34% | 10% |
| 1996 | 58 | 187 | 635 | 31% | 9% |
| 1995 | 60 | 181 | 588 | 33% | 10% |
| 1994 | 65 | 192 | 596 | 34% | 11% |
| 1993 | 59 | 192 | 627 | 31% | 9% |
| 1992 | 65 | 242 | 732 | 27% | 9% |
| 1991 | 91 | 245 | 754 | 37% | 12% |
| 1990 | 55 | 182 | 660 | 30% | 8% |
| 1989 | 60 | 175 | 657 | 34% | 9% |
| 1988 | 53 | 186 | 576 | 28% | 10% |
| 1987 | 60 | 204 | 644 | 29% | 9% |
| 1986 | 39 | 139 | 569 | 28% | 7% |
| 1985 | 57 | 193 | 704 | 30% | 8% |
| 1984 | 56 | 190 | 667 | 29% | 8% |
| 1983 | 49 | 202 | 682 | 24% | 7% |
| 1982 | 46 | 184 | 667 | 25% | 7% |
| 1981 | 57 | 170 | 648 | 34% | 9% |
| 1980 | 42 | 158 | 592 | 27% | 7% |
| 1979 | 51 | 175 | 631 | 29% | 8% |
| 1978 | 51 | 182 | 661 | 28% | 8% |
| 1977 | 55 | 192 | 711 | 29% | 8% |
| 1976 | 49 | 183 | 668 | 27% | 7% |
| 1975 | 49 | 206 | 701 | 24% | 7% |
| 1974 | 35 | 160 | 600 | 22% | 6% |

^a Annual Toronto homicide numbers were provided by Toronto Police Services, Homicide Squad. Provincial and national figures were compiled from Canadian Centre for Justice Statistics annual homicide Juristats.

| APPENDIX C NUMBER AND PERCENT OF CASES MISSING INFORMATION FOR INDEPENDENT AND CONTROL VARIABLES | | |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------|
| Variable | Number cases missing information | % missing information |
| Key Independent Variables | | |
| Victim-accused relationship | 0 | 0 |
| Year case entered court | 0 | 0 |
| Gender of accused | 0 | 0 |
| Gender of victim | 0 | 0 |
| Control Variables | | |
| Legal Factors | | |
| Criminal history of accused | 145 | 12.7 |
| Role of accused in homicide | 0 | 0 |
| Number of accused | 0 | 0 |
| Number of victims | 0 | 0 |
| Characteristics of the accused ^d | | |
| Accused race/ethnicity | 122 | 10.6 |
| Accused age | 16 | 1.4 |
| Accused employment status | 179 | 15.7 |
| Accused marital status | 113 | 9.9 |
| Accused psychiatric history | 150 | 13.2 |
| Victim Characteristics | | |
| Victim race/ethnicity | 125 | 11.0 |
| Victim age | 9 | 0.8 |
| Victim employment status | 182 | 16.0 |
| Victim marital status | 97 | 8.5 |
| Victim psychiatric history | 595 | 52.3 |
| Victim criminal history | 358 | 31.5 |
| Characteristics of the incident | | |
| Weapon use | 0 | 0 |
| Location of killing | 0 | 0 |
| Accused drinking/using drugs | 533 | 46.8 |
| Victim drinking/using drugs | 274 | 24.1 |



| APPENDIX D FULL RESULTS FOR MULTIVARIATE ANALYSIS: EXAMINING OUTCOMES IN INTIMATE PARTNER & NON-INTIMATE PARTNER HOMICIDE, REDUCED SAMPLE, TORONTO, 1974-2002 | | | | | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------|-----------------------------------------|-------|----------------------------------------|--------|----------------------------------|--------|
| Variable | First-degree murder (N=914 cases) | | Case resolved at trial (N=910 cases) | | Found guilty at trial (N=517 cases) | | NCRMD Acquittal (N=204 cases) | |
| | Model 1 (Logit) | | Model 2 (Logit) | | Model 3 (Logit) | | Model 4 (Logit) | |
| | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds |
| Victim-accused relationship | | | | | | | | |
| Intimate partner | -.67 (.25)** | .51 | -.88 (.24)*** | .41 | .82 (.34)* | 2.27 | -.74 (.88) | .48 |
| Time period | | | | | | | | |
| Case entered court 1984-1996 | .18 (.17) | 1.19 | -.42 (.17)* | .65 | .49 (.24)* | 1.63 | -1.07 (.60) | .34 |
| Case entered court 1997-2002 | .05 (.31) | 1.05 | -.22 (.30) | .81 | .51 (.39) | 1.67 | -.11 (.89) | .90 |
| Gender | | | | | | | | |
| Accused is male | -.24 (.27) | .79 | -.30 (.25) | .74 | .81 (.36)* | 2.25 | -.34 (.69) | .71 |
| Victim is male | -.84 (.22)*** | .43 | -.85 (.22)*** | .43 | .12 (.29) | 1.12 | -1.98 (.64)** | .14 |
| Legal variables | | | | | | | | |
| Accused has prior non-violent record | .05 (.19) | 1.05 | -.37 (.18)* | .69 | .76 (.25)** | 2.14 | -.50 (.55) | .61 |
| Accused has prior violent record | .58 (.26)* | 1.78 | -.49 (.24)* | .61 | 1.88 (.45)*** | 6.52 | -3.36 (.87) | .89 |
| Severity of initial charge | -- | -- | -.08 (.13) | .93 | .67 (.19)** | 1.95 | 1.54 (.45)** | 4.68 |
| Case resolved at trial | -- | -- | -- | -- | -- | -- | -- | -- |
| Extra-legal variables | | | | | | | | |
| <i>Characteristics of the accused</i> | | | | | | | | |
| Accused is white | .01 (.19) | 1.00 | .19 (.17) | 1.21 | .21 (.26) | 1.24 | -.01 (.65) | .99 |
| Age of accused | .02 (.01) | 1.02 | -.00 (.01) | .99 | -.02 (.01) | .98 | .05 (.03)* | 1.06 |
| Accused is employed | .04 (.19) | 1.04 | .31 (.18) | 1.36 | .58 (.25)* | 1.79 | .88 (.59) | 2.40 |
| Accused is married | .21 (.20) | 1.23 | -.06 (.18) | .94 | .27 (.26) | 1.31 | -1.69 (.66)** | .19 |
| Accused has psychiatric history | -.36 (.29) | .70 | -.33 (.26) | .72 | -.77 (.37)* | .46 | 3.27 (1.04)** | 26.18 |
| <i>Characteristics of the victim</i> | | | | | | | | |
| Victim is white | .02 (.19) | 1.02 | -.28 (.17) | .76 | .22 (.26) | 1.25 | -.88 (.68) | .42 |
| Age of victim | -.01 (.01) | .99 | .01 (.01) | 1.01 | .00 (.01) | 1.00 | -.03 (.02) | .97 |
| Victim is employed | .82 (.18)*** | 2.27 | -.03 (.18) | .97 | .17 (.25) | 1.18 | 1.25 (.60)* | 3.50 |
| Victim is married | -.12 (.20) | .89 | .14 (.19) | 1.15 | -.30 (.26) | .74 | 1.74 (.61)** | 5.71 |
| Victim has prior criminal record | -.10 (.24) | .91 | -.39 (.21) | .68 | -.01 (.35) | .99 | .51 (1.09) | 1.67 |
| <i>Characteristics of the incident</i> | | | | | | | | |
| Homicide occurred in public location | .35 (.18)* | 1.42 | -.01 (.17) | .99 | .27 (.24) | 1.32 | -1.20 (.59)* | .30 |
| Gun used in killing | 1.19 (.19)*** | 3.28 | .74 (.20)*** | 2.11 | -.15 (.26) | .86 | -1.18 (.67) | .31 |
| Victim drinking/using drugs | -.68 (.20)** | .51 | -.50 (.19)** | .61 | .48 (.29) | 1.62 | -2.19 (.76)** | .11 |
| Intercept (S.E.)/Model X2 | -.69 (.45) | 143.33 | 1.92 (.54) | 96.07 | -2.72 (.76) | 105.68 | -1.63 (1.52) | 139.06 |

NOTE: * p <.05 ** p <.01 *** p <.001

Criminal Justice Outcomes in Intimate and Non-Intimate Partner Homicide Cases

| FULL RESULTS FOR MULTIVARIATE ANALYSIS: OUTCOMES IN INTIMATE PARTNER & NON-INTIMATE PARTNER HOMICIDE CASES, REDUCED SAMPLE, TORONTO, 1974-2002 (CONTINUED) | | | | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|--------|------------------------------|--------|-----------------------------|--------|-------------------------------|
| Variable | Overall conviction (N=914 cases) | | Murder conviction (N=701) | | Federal sentence (N=701) | | Length of sentence (N=701) |
| | Model 5 (Logit) | | Model 6 (Logit) | | Model 7 (Logit) | | Model 8 (OLS) |
| | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> | Odds | <i>b</i> (S.E) |
| Victim-accused relationship | | | | | | | |
| Intimate partner | 1.02 (.28)*** | 2.77 | -.34 (.46) | .71 | -.25 (.47) | .78 | -.53 (.45) |
| Time period | | | | | | | |
| Case entered court 1984-1996 | .63 (.20)** | 1.87 | .63 (.28)* | 1.87 | .30 (.30) | 1.34 | .51 (.32) |
| Case entered court 1997-2002 | .13 (.33) | 1.14 | 1.43 (.44)** | 4.17 | .50 (.60) | 1.65 | 1.03 (.54)* |
| Gender | | | | | | | |
| Accused is male | .85 (.27)** | 2.35 | 1.08 (.48)* | 2.94 | .85 (.41)* | 2.35 | .82 (.50) |
| Victim is male | .50 (.24)* | 1.65 | -1.13 (.34)** | .32 | -1.01 (.48)* | .37 | -1.47 (.41)*** |
| Legal variables | | | | | | | |
| Accused has prior non-violent record | .65 (.21)** | 1.92 | .62 (.28)* | 1.86 | .14 (.31) | 1.14 | 4.55 (.32) |
| Accused has prior violent record | 1.59 (.38)*** | 4.89 | 1.11 (.35)** | 3.03 | 1.60 (.60)** | 4.96 | 1.23 (.41)** |
| Severity of initial charge/conviction | .47 (.15)** | 1.59 | 2.50 (.24)*** | 12.23 | 2.73 (.37)*** | 15.32 | 6.94 (.22)*** |
| Case resolved at trial | -- | -- | 2.15 (.25)*** | 8.60 | .64 (.29)* | 1.90 | 1.03 (.29)** |
| Extra-legal variables | | | | | | | |
| <i>Characteristics of the accused</i> | | | | | | | |
| Accused is white | .01 (.22) | 1.01 | .24 (.28) | 1.27 | -.26 (.31) | .77 | .37 (.32) |
| Age of accused | -.02 (.01)* | .98 | -.04 (.01)* | .96 | -.01 (.01) | .99 | -5.77 (.02) |
| Accused is employed | .20 (.22) | 1.23 | -.34 (.28) | .71 | -.71 (.33)* | .49 | -.65 (.34) |
| Accused is married | .32 (.22) | 1.37 | .29 (.28) | 1.33 | -.36 (.32) | .70 | -.16 (.34) |
| Accused has psychiatric history | -.57 (.28)* | .57 | .44 (.43) | 1.55 | 2.22 (.81)** | 9.25 | .40 (.52) |
| <i>Characteristics of the victim</i> | | | | | | | |
| Victim is white | .31 (.22) | 1.36 | .25 (.27) | 1.28 | -.03 (.31) | .97 | .17 (.33) |
| Age of victim | .00 (.01) | 1.00 | .00 (.01) | 1.00 | .01 (.01) | 1.01 | 1.04 (.01) |
| Victim is employed | .13 (.22) | 1.14 | .41 (.26) | 1.51 | .58 (.34) | 1.79 | .74 (.31)* |
| Victim is married | -.32 (.22) | .73 | -.20 (.28) | .82 | -.17 (.33) | .85 | -.23 (.34) |
| Victim has prior criminal record | .34 (.29) | 1.41 | .62 (.31) | .54 | .14 (.37) | 1.15 | -.31 (.34) |
| <i>Characteristics of the incident</i> | | | | | | | |
| Homicide occurred in public location | .16 (.20) | 1.18 | -.37 (.26) | .69 | .06 (.30) | 1.06 | .28 (.32) |
| Gun used in killing | -.37 (.22) | .69 | .28 (.28) | 1.32 | -.34 (.34) | .71 | .21 (.35) |
| Victim drinking/using drugs | .53 (.24)* | 1.70 | -.35 (.27) | .71 | .15 (.33) | 1.16 | -.33 (.34) |
| Intercept (S.E.)/Model X2 | -1.63 (.59) | 130.06 | -7.19 (.96) | 396.38 | -4.25 (1.09) | 232.69 | -9.16 (1.02) |

NOTE: * p <.05 ** p <.01 *** p <.001