

Judicial Attitudes on Feminist Ideas and Female Felons: The Impact on Female Crime Patterns

by Charles O. Ochie Sr., Ph.D. and Tayoba T. Ngenge, Ph.D.

Abstract

Literature indicated that judicial decision-making often reflected traditional social values and gender-based biases held by judges. Because Oklahoma led the nation in percent of female incarcerations in the 1980s and early 1990s, the authors administered questionnaires containing two scales (judicial attitudes toward feminism and toward female felons and criminality) to 234 of the 243 Oklahoma judges. Those questionnaires tested the judges for attitudes and biases against feminism and female felons, and for negative impacts of those attitudes in the judges' sentencing decisions concerning females. Responses from the first scale indicated less than expected gender bias from the judges; those responses even indicated general support by the judges for gender equality. Responses from the second scale indicated more, and aggressive, female criminal activities and the danger of their involvement but no significant impact on the judges sentencing decisions.

INTRODUCTION

One of the most controversial topics in criminology today has been judicial attitudes and their effects on the decisions that judges make daily in American courts. Those attitudes, allegedly shared by many judges, were thought to be gender-based traditional attitudes, biases, and myths about women. Although such attitudes could be minimized with some judges, they probably could not be eliminated because overwhelming evidence suggested that they were embedded in the law itself (Wikler, 1980). Empirical studies of judicial attitudes by legal scholars and social scientists also confirmed that male judges tended to adhere to traditional values and beliefs about the "nature" of and proper roles for men and women, and to prefer conformity to traditional and familiar institutions and roles (Wikler, 1980). Steffensmeier (1980) suggested that women judges, however, had not been socialized to view their roles as protective of fellow women. Therefore, they may not have held such traditional attitudes. The study set out to determine whether Oklahoma judges held traditional attitudes, particularly toward females, feminism, and female felons, and (if so determined) whether the attitudes contributed to the higher-than-national percent of per capita female incarcerations in Oklahoma. Toward that objective, the study examined three broad areas: (a) judges' attitudes toward feminism and some feminist ideas, (b) judges' attitudes toward patterns of female criminality in Oklahoma, and (c) judges' opinions on female felons and their treatment by criminal justice agencies. Responses were compared from those judges by gender.

A 1991 report from the Oklahoma Department of Corrections showed Oklahoma leading the nation in per capita female incarceration. According to the report, while women

comprised 5.6% of prisoners in the nation, they comprised 8.7% of prisoners in Oklahoma!

In reaction to this report, a state correctional official described Oklahoma as a "no-nonsense, frontier land in the middle of the Bible Belt" (Mecoy, 1991). This official suggested that in Bible Belt states like Oklahoma, official decision-making was based not only on legal grounds, but on non-legal ones as well. He further suggested that Oklahoma's criminal justice system, and its judicial decision-making process in particular, often reflected these Bible Belt attitudes which may have been rooted in such variables as race, gender, etc. Concerning feminist issues and female crime patterns, the study sought to determine whether Oklahoma judges retained such attitudes and whether their doing so explained the increased incarceration of females in their state. The study's key assumption was that such attitudes in judges influenced their judicial decisions, especially sentencing. Such judges might have perceived females engaging in criminal activity as deviating from traditionally expected female behavior and sentence them more severely.

Prior Studies on Factors Influencing Judicial Bias

The influence of non-legal variables, like the attitudes under study, in judicial decisions had been well documented in the literature. The pivotal question becomes: to what extent did these non-legal variables affect decision-making daily in American criminal courts? While some impact on judicial decision-making might have been due to other non-legal variables, that of traditional attitudes toward gender surfaced as one of the most serious. According to Wikler (1980), researchers found evidence of gender-based stereotypes, biases/myths, and discrimination in the judiciary. Wikler reported that male judges in particular tended to sustain traditional values and beliefs about the "natures" and proper roles of men and women, preferring traditional and familiar institutions and roles (1980). Wikler also suggested that those gender-based stereotypes, biases, and myths embedded in the law also lay under non-legal variables that influenced judicial decisions.

In a summary finding of an attitude survey of Alabama judges, Crites stated that the data revealed "a strong judicial attachment to [a] traditional nature of female personality." Those judges believed women to be "more emotional, sympathetic, and artistically inclined than men and less aggressive, less able to reason logically, and poorer leaders than men." Further, they believed in familiar roles of "women as wife and mother, and men as decision-makers" (Crites, 1978).

In a similar study, Cook (1979) applied Guttman's statistical scaling to examine U.S. Supreme Court decisions on women's rights issues from 1971-1977. He also measured the relative attachment of each Justice to sexist precedent and the relative willingness of each Justice to give legitimacy to new sex roles. Cook's findings suggested that the Burger court decided cases concerning female roles in America by applying the judges' personal value systems rather than by applying relatively neutral legal principles. Cook's findings also suggested that, over time, the court's decisions reflected/ established an

increasingly traditional orientation or "anti-feminist" stance toward sex roles (Cook, 1979).

In another related study, Cook (1978) compared questionnaire responses of a matched sample of 85 male and 85 female state trial judges in 1978. He found that women judges shared strong attitudes favoring new social roles for women, whereas male judges did not.

Other researchers demonstrated strides by male judges towards freeing themselves from thought patterns that seemed discriminatory. One pointed out that the judicial "virtues of objectivity, reflection, impartiality, and critical analysis" had served judges well on other sensitive social issues (Wikler, 1980). Johnston and Knapp (1971) echoed this view:

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

However, judicial attitudes differed toward sex discrimination. Johnston, and Knapp (1971) concluded that

Sexism--the making of unjustified (or at least unsupported) assumptions about individual capabilities, interests, goals, and social roles solely on the basis of sex differences--is easily discernible in contemporary judicial opinions as racism ever was (in Wikler, 1980, p. 203).

Mann (1984) also indicated that extra-legal factors such as the judge's personal history, personality, morals, and convictions, and the defendant's social traits and personal characteristics also influenced decision-making:

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

Sexist attitudes may also have influenced sentencing through the attribution of criminal responsibility and intent. Because criminal behavior in women was less expected or anticipated, it was perceived as unlikely and even impossible, whereas male involvement was perceived as both possible and likely (Steffensmeier, 1980). Preconception of the female offender as amenable to rehabilitation and as less likely to transgress in the future was another attributional process. Judges doing such attributions may also have viewed imprisonment as an opportunity for women to acquire vocational skills.

With those assumptions, the study aimed first, to determine whether Oklahoma judges did in fact retain such traditional attitudes during decision-making. Going further, the

study examined the incarceration rate of female offenders in Oklahoma for effects of those attitudes.

METHODOLOGY

Questions went out in 1993 to 234 Oklahoma Supreme Court Justices, Criminal Appeals Courts Judges, Court of Appeals Judges, District Court Judges, Associate District Court Judges, and Municipal Court Judges. Table 1 presents demographic data about the judges surveyed. Workers Compensation court judges were excluded from this research because they did not preside over criminal jurisdictions.

The 34-question survey was divided into the following sections: section one used demographic items (the participants' sex, age, marital status, race/ethnicity, and jurisdictional levels), and section two used the belief-pattern scale developed by Clifford Kilpatrick (1936) and scrutinized occupational, domestic, and social role identities which contemporary society assigned to females. Helen Stone also used the scale to measure police officers' attitudes (Moyer, 1985). The authors have used a Likert-type scale for scoring responses to those 13 items. Respondents were allowed five choices for each item: 1 = strongly agree, 2 = agree, 3 = undecided, 4 = disagree, and 5 = strongly disagree. Section three presented questions to elicit judicial attitudes towards both female offenders and female crime. Respondents were allowed three possible choices for each item: 1 = Yes, 2 = No opinion, and 3 = No.

Sixty percent of the judges returned the questionnaires (142 out of 234), 89.4% of them being male and 10.6% female. Ninety-two percent were White, 2.8% were Native American, 2.1% African American, and 2.1% Hispanic. Eighty-seven percent were married, 4.9% were single, and the remaining 7% were either divorced, separated, or widowed. The largest age group comprised judges 45-50 years (21.1%); the next, judges 40-45 cohort (19%); then, judges 51-55 (13.4%); then, judges 56-60 (12.7%); and, finally, judges 36-40 (11.3%). District court judges were a majority (92.3%). Oklahoma Court of Criminal Appeal judges were second (3.5%). district/associate district judges were a majority because they presided mainly over criminal jurisdictions.

A frequency analysis was used to describe the judges' responses to the questions. Although the female sample size in the analysis was relatively small (11%) and may seem insufficient for a generalization, comparison of judicial attitudes by gender was crucial in this study. In those responses, the attitudes of female judges may have either validated or reveal as biased the attitudes of male judges toward those issues.

FINDINGS*

Judicial attitudes toward feminism

Descriptive analysis revealed several important attitudes (see Table 1).

As Table 2 shows, an overwhelming majority of all judges agreed that women should be empowered to compete with men for all jobs. All female judges agreed with this proposition; four male judges disagreed; and one male expressed no opinion.

In Table 3, the judges expressed strong agreement with the idea of equal-pay-for-equal work regardless of gender from both males (98%) and females (100%).

TABLE 1

Variables	Category	Number	Percent
Sex	Male	127	89.4
	Female	15	10.6
Race	American Indian	4	2.8
	African American	3	2.1
	Caucasian	131	92.3
	Hispanic	3	2.1
Age	30-35	8	5.6
	36-40	16	11.3
	40-45	27	19.0
	45-50	30	21.1
	51-55	19	13.4
	56-60	9	6.3
	61-65	18	12.7
	66-70	10	7.0
Marital Status	71-75	4	2.8
	Married	124	87.3
	Single	7	4.9
	Divorced	7	4.9
	Separated	2	1.4
Widowed	1	.7	
Judicial Levels	Municipal Court of Records	1	.7
	Municipal Court of no Records	1	.7
	Oklahoma District Court Criminal/Civil	131	92.3
	Oklahoma Court of Appeals	5	3.5
	Oklahoma Court of Criminal Appeals	2	1.4
	Oklahoma Supreme Court	1	.7

142 of 234 were returned, representing 60 percent return rate.

Q-6. Women should have the right to compete with men for all kinds of jobs.

TABLE 2

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	104	73.0	93	73	11	73
Agree	32	22.0	28	22	4	27
Undecided	1	0.7	1	0.8	0	0
Disagree	3	2.1	3	2.4	0	0
Strongly Disagree	1	0.7	1	0.8	0	0

Total 141 Male - 126 Female = 15

*[Not all judges responded to all questions--Ed.]

Q-7: Regardless of gender there should be equal pay for equal work.

TABLE 3

	ALL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	119	83	105	82.7	14	93
Agree	21	14	20	15.7	1	7
Undecided	1	0.7	1	0.8	0	0
Disagree	1	0.7	1	0.8	0	0
Strongly Disagree	0	0	0	0	0	0

Total 142 Male - 127 Female = 15

Q-8: Women should be encouraged to become judges

TABLE 4

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	87	61	78	61.4	9	64
Agree	34	23	30	23.6	4	28

Undecided	10	7.0	9	7.1	1	6.7
Disagree	8	5.6	8	6.3	0	0
Strongly Disagree	3	2.1	0	0	0	0

Total 140 Male - 125 Female = 15

Eighty-four percent of all respondents agreed (Table 4) that women should be encouraged to become judges. Only slightly more female judges (92%) than male judges (84%) agreed; in fact, only 13% of male judges either disagreed or expressed no opinion.

Q-9: Women should be given equal opportunities with men for vocational training.

TABLE 5

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	113	79	100	78.7	13	87
Agree	25	17.6	23	18.1	2	13.3
Undecided	3	2.1	3	2.4	0	0
Disagree	1	0.7	1	.8	0	0
Strongly Disagree	0	0	0	0	0	0

Total 142 Male - 127 Female = 15

Those judges also strongly agreed (Table 5) that women should have opportunities in vocational training equal to those men have. The female judges agreed unanimously as compared with 96% of male judges.

Q-10: Male workers should receive higher pay than female workers since they usually have a family to support.

TABLE 6

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	4	2.8	4	3.1	0	0
Agree	0	0.0	0	0.0	0	0
Undecided	3	2.1	3	2.2	0	0
Disagree	49	34.5	46	36.2	3	20

Strongly Disagree	86	60.6	74	58.3	12	80
-------------------	----	------	----	------	----	----

Total 142 Male - 127 Female = 15

While 94% of responding judges disagreed (Table 6) that male workers should receive higher pay than females, a small number did agree. Ninety-six percent male versus 100% female judges disagreed; four male judges strongly agreed, and three remained undecided.

Q-11: Women should be encouraged to seek employment where they will compete with men.

TABLE 7

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	44	31	39	30.7	5	33
Agree	41	28.9	34	26.8	7	47
Undecided	32	22.5	32	25.2	0	0
Disagree	22	15.5	20	15.7	2	13
Strongly Disagree	1	.7	1	.7	0	0

Total 140 Male - 126 Female = 14

An interesting gender difference emerged at this point: although about 60% of all judges agreed that women should be encouraged to seek employment where they will compete with men, only 58% of males agreed as compared with 80% of females. Even more interesting, 16% of judges disagreed; 25% declared themselves undecided; and just two female judges disagreed.

Q-12: Appointments and promotions should be determined by how well a person does a job and not whether he/she is a man or a woman.

Both male and female judges agreed (Table 8) that a person's performance should determine appointments and promotions.

TABLE 8

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent

Strongly Agree	116	81.7	101	79.5	15	100
Agree	26	18.3	26	20.5	0	0
Undecided	0	0	0	0	0	0
Disagree	0	0	0	0	0	0
Strongly Disagree	0	0	0	0	0	0

Total 142 Male - 127 Female = 15

Q-13: Husband and wife should share household chores if the wife works outside the home.

TABLE 9

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	88	62	79	62.2	9	60
Agree	46	32.4	42	33.1	4	26.7
Undecided	4	2.8	4	3.1	1	6.7
Disagree	2	1.4	1	.8	1	6.7
Strongly Disagree	0	0	1	.8	0	0

Total 142 Male - 127 Female = 15

Although, a significant majority of respondents (Table 9) agreed that husband and wife should share household chores if the wife worked outside the home, a very small number of judges--eight (six male, two female)--either disagreed or were undecided.

Asked whether married women should withhold sex if they chose (Table 10), 68% of all judges agreed, and about 27% either disagreed or did not decide. However, 67% of the male judges agreed as compared with 66% of females. About 29% of the male judges disagreed or were undecided, as compared with 13% of the females.

Q-14: Married women should be able to withhold sex as they choose.

TABLE 10

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	57	40	52	40	5	33

Agree	40	28	35	27.6	5	33
Undecided	15	10.6	15	11.8	0	0
Disagree	13	9.2	12	9.8	1	6.7
Strongly Disagree	10	7.0	9	7.3	1	6.7

Total 135 Male - 123 Female = 12

Q-15: A man has a right to expect his wife to accept his views of what the family can afford to buy.

TABLE 11

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	1	0.7	1	.8	0	0
Agree	16	11.3	15	11.8	1	6.7
Undecided	15	10.6	15	11.8	0	0
Disagree	63	44.4	56	44.1	7	46.0
Strongly Disagree	43	30.3	36	28.3	7	46.0

Total 142 Male - 127 Female = 15

While 72% male and 92% female judges disagreed, about 12% of the male judges and one female judge agreed that a man had the right to expect his wife to accept his views of what the family could afford to buy. It might have been significant that another 12% of the male judges were undecided. All tolled, about 75% of the judges disagreed.

Whether women should feel flattered by special attention from men generated interesting responses. As Table 12 shows, only about 46% of all respondents agreed that women should be flattered by such special attention from men. About 31% of all judges disagreed, and about 20% remained undecided. Forty-six percent of both male and female judges indicated that women should be flattered by such attention. But a significant percentage of both male and female judges also disagreed or were undecided--47% and 40% respectively.

Q-16: Women should be flattered by special attention shown to them by men (opening door, etc.).

TABLE 12

	TOTAL JUDGES	MALE JUDGES	FEMALE JUDGES
--	--------------	-------------	---------------

	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	8	5.6	8	6.3	0	0
Agree	58	40.8	51	40.2	7	46
Undecided	28	19.7	27	21.3	1	6.7
Disagree	32	22.5	31	24.4	1	6.7
Strongly Disagree	12	8.5	8	1.6	4	26.7

Total 138 Male - 125 Female = 13

Q-17: A single female should be allowed to have as many sexual partners as she desires.

TABLE 13

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	24	16.9	21	16.5	3	20
Agree	46	32.4	44	34.6	2	13.3
Undecided	17	12	16	12.6	1	6.7
Disagree	28	19.7	25	19.7	3	20
Strongly Disagree	20	14.1	4	3.1	3	20

Total 122 Male - 110 Female = 12

Responses to this question varied widely. About half (49%) of the judges agreed that a single female should be free to have as many sexual partners as she desired. Yet, 34% of the judges disagreed, and 12% were undecided. More female judges (40%) disagreed than agreed (33%). And, more than half (51%) of the male judges agreed, with 23% disagreeing.

Q-18: A woman who asks a man for a date is being bold.

TABLE 14

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Strongly Agree	1	.7	1	0.8	0	0
Agree	19	13.4	19	15	0	0
Undecided	16	11.3	14	11	2	13.3

Disagree	75	52.8	68	53.5	7	46.7
Strongly Disagree	29	20.7	23	18.1	6	40.0

Total 140 Male - 125 Female = 15

A sizeable majority (74%) of the judges disagreed that a woman asking a man for a date was being bold. But 14% of the judges agreed she was being bold. Eleven percent were undecided. An overwhelming majority of both (72% male, 87% female) judges disagreed she was being bold. However, about 16% male judges agreed, and 11% were undecided. Two female judges were undecided.

Judicial Opinions on Female Crime Patterns and Female Felons

Q-19: Is the incidence of female crime changing?

TABLE 15

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	96	67.6	88	69.3	8	53
No	25	17.6	21	16.6	4	27
No Opinion	20	14.1	18	14.2	2	13

Total 142 Male - 127 Female = 15

Perceptions diverged between male and female judges on the incidence of female crime and was clearly reflected in their responses. Overall, about 67% of judges believed that the incidence of female crime was changing. About 18% indicated that the incidence of female crime was not changing, and 14% withheld opinion. More male judges (69%) than female judges (53%) believed that was so. About 17% of male judges indicated that the incidence of female crime was not changing, compared with 27% that of the females. Fourteen percent of the male judges (versus 13% of females) disclosed no opinion.

Q-20: Are women engaging in more crime now than before?

TABLE 16

	TOTAL JUDGES	MALE JUDGES	FEMALE JUDGES
--	--------------	-------------	---------------

	No.	Percent	No.	Percent	No.	Percent
Yes	96	65.5	85	66.9	8	53.0
No	27	19.0	22	17.3	5	33.0
No Opinion	20	14.1	19	15.0	1	6.7

Total 143 Male - 126 Female = 14

Most judges (66%) believed that women were engaged in more crime than before. About 70% male and 53% female judges concurred. Seventeen percent male and 33% female judges believed that women were not engaged in more crime than before. Fifteen percent of male judges expressed no opinions.

Only 18% of all judges (Table 17) believed it accurate to talk about masculine and feminine crimes, 69% indicating that it was not. Seventy percent of the male judges (and 60% of the female) believed that it was not accurate to distinguish crimes as masculine or feminine. However, 17% of male judges, as compared to about 27% of female judges, agreed.

Q-21: Is it accurate to talk about "masculine and feminine crime?"

TABLE 17

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	26	18.3	22	17.3	4	26.7
No	98	69.0	89	70.1	9	60.0
No Opinion	14	10.0	14	11.0	2	13.3

Total 142 Male - 127 Female = 15

Q-22: Has your impression of female felons changed in the last decade?

TABLE 18

	TOTAL JUDGES	MALE JUDGES	FEMALE JUDGES

	No.	Percent	No.	Percent	No.	Percent
Yes	40	28.6	35	27.6	5	33.3
No	87	61.3	79	62.2	8	53.3
No Opinion	12	8.5	11	11	1	6.7

Total 142 Male - 127 Female = 15

The majority of the judges (Table 18) indicated that their impression of female felons had not changed in the last decade. Whereas 61% of judges pointed out that their impression of female felons had not changed over the last decade, almost 29% said that their impression had changed. Sixty two percent of male judges as compared to 53% of female judges also indicated that their impression of female felons had not changed over the last decade.

A slight majority (53%) of the judges (Table 19) believed female felons to be more aggressive today than in the last decade. About 47% of those judges either disagreed or expressed no opinions. A higher percentage of male judges (54%) than female (40%) held that view of female felons. Twenty-five percent of male and 26% of female judges viewed female felons otherwise.

Q-23: Is the contemporary female felon more aggressive than her predecessor in the last decade?

TABLE 19

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	75	52.8	69	54.3	6	40
No	36	25.5	32	25.2	4	26.7
No Opinion	30	21.1	26	20.5	4	26.7

Total 142 Male - 127 Female = 15

Q-24: Do other judges see female felons in a more aggressive light?

TABLE 20

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	30	21.1	27	21.3	3	20
No	10	7.0	10	7.9	11	73.3
No Opinion	100	70.4	89	70	1	6.7

Total 142 Male - 127 Female = 15

Most of the judges were unwilling (Table 20) to answer this question: 70% did not express opinions at all. Similarly, 70% of male judges did not express any opinions on whether judges saw female felons as more aggressive. However, 73% of female judges did not believe that judges saw female felons as more aggressive.

Only about 16% of the judges (Table 21) believed the women's movement to be responsible for changes in the behavior of female felons, and 39% believed otherwise. The majority of judges (45%) withheld an opinion, however. Whereas, 36% of the male judges did not believe that the movement was responsible, 17% believed it was responsible. The majority of male judges (47%) withheld an opinion. Most female judges (53%) indicated that the movement was not responsible, with only one female judge who believed it was. Thirty-three percent of the female judges expressed no opinion.

Q-25: Is the women's movement responsible for the change in the behavior of female felons?

TABLE 21

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	22	15.5	21	16.5	1	6.7
No	54	38.6	46	36.2	8	53.3
No Opinion	64	45.1	59	46.5	5	33.3

Total 142 Male - 127 Female = 15

Q-26: Are female offenders getting lenient sentences?

TABLE 22

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	50	35.2	48	37.8	2	13.3
No	64	45.1	55	43.3	9	60.0
No Opinion	24	17.0	22	17.3	2	31.3

Total 142 Male - 127 Female = 15

Whether or not female offenders (Table 22) were getting leniency in court was a legitimate, important question, given the huge body of data supporting the view that they have been. However, 45% of the judges disagreed, while 35% believed female offenders were getting such leniency. Forty-three percent of the male judges indicated that female offenders were not getting lenient sentences, while about 38% of them said they were. A significant majority (60%) of female judges responding did not believe so. Only two female judges believed that leniency was shown to female offenders in Oklahoma courts.

Q-27: Have you been noticing an increasing load of female cases in your court?

TABLE 23

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	83	58.5	75	59.1	8	53
No	40	28.2	35	27.6	5	33.3
No Opinion	14	10.0	13	10.2	1	6.7

Total 142 Male - 127 Female = 15

About 59% of the judges (Table 23) indicated having noticed an increased load of female cases in their court, whereas 28% did not. More male judges (59%) reported having noticed an increased load of female cases in their court than female (53%). Thirty-three percent of female and about 28% of male judges had not noticed this increase.

Q-28: If you answered yes to the above question, have your sentencing decisions been influenced in any way by this increasing load?

TABLE 24

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	13	9.2	13	10.2	8	53
No	72	50.7	64	50.4	2	13.3
No Opinion	15	10.6	13	10.2	5	33.3

Total 142 Male - 127 Female = 15

Although the majority of judges (Table 24) said they had noticed an increased load of female cases, the sentencing decisions of 50% of the judges did not reflect any influence from the increase. It did appear, however, that such increases might have had a greater influence on the sentencing decisions of female (53%) than of male (50%) judges. The data also showed 33% of female judges and 10% of male judges expressing no opinion on this question.

Q-29: Do you think that female crimes are getting more dangerous?

TABLE 25

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	56	39.4	53	41.7	3	20
No	52	36.6	46	36.2	6	40
No Opinion	29	20.4	26	20.5	3	20

Total 142 Male - 127 Female = 15

In response to this question (Table 25), 39% of judges agreed that female crimes were getting more dangerous, whereas 36% disagreed. Forty-one percent of male judges and only 20% of female judges believed that female crimes were increasingly more dangerous. This was compared to the 40% of the female and 36% of the male judges who

believed that female crimes were not getting more dangerous. It would seem that more female than male judges were likely to believe that female crimes were not increasing in dangerousness.

As earlier indicated, one attributional process had been identified by which the female offender was perceived as amenable to rehabilitation. This attribution had been suspected of invoking more punitive treatment of female offenders, most certainly in the form of longer prison sentences. So, when judges were asked if they thought female offenders benefited from more and longer prison rehabilitation than the males (Table 26), about 72% of them answered no, and 23% withheld opinions. Seventy-three percent of male judges responded negatively as did 60% of female judges; 22% of male and 33% of female judges did not express any opinions.

Q-30: Do you think that females benefit more from longer prison rehabilitation than the males?

TABLE 26

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	3	2.1	3	2.4	0	0
No	102	71.8	93	73.2	9	60
No Opinion	33	23.2	28	22.0	5	33.3

Total 142 Male - 127 Female = 15

Q-31: Do you think that women generally are treated harshly by the criminal justice system?

TABLE 27

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	8	5.6	6	4.7	2	13.3
No	115	81.0	104	81.9	11	73.3
No Opinion	15	10.6	15	11.8	0	0.0

Total 142 Male - 127 Female = 15

The judges strongly disagreed (Table 27) that women were generally treated harshly by the system. By significant margins, 81% of the judges pointed out that women were not generally treated harshly by the system. Eighty-one percent of male and 73% of female judges shared a similar view. Only eight judges (two female and six male) believed that women were treated harshly by the system.

Q-32: Do you think that women in prison are treated harshly?

TABLE 28

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	8	5.6	6	4.7	2	13
No	57	40.7	51	40.2	6	40
No Opinion	75	53.6	69	54.3	6	40

Total 142 Male - 127 Female = 15

When asked (Table 28) if incarcerated female offenders, specifically, were treated harshly, a majority of the judges--about 54%--did not express any opinions, and about 41% said that women were not treated more harshly. Forty percent male and female judges disagreed. Six male and two female judges stated that women in prison were indeed treated harshly.

Q-33: Are females better prospects for probation and parole than males?

TABLE 29

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	37	26.1	35	27.7	2	13.3
No	57	40.0	52	40.9	5	33.3
No Opinion	45	31.7	38	29.9	7	46.7

Total 142 Male - 127 Female = 15

A slight majority (40%) denied that females were better prospects for probation or parole (Table 29). Only 26% indicated that females were better prospects, and 32% withheld opinions. Only about 28% of the male judges believed that females were better prospects as compared with about 41% who did not. Two female judges thought that females were better prospects as opposed to 33% of them who did not think so. A significant number of female judges (about 47%) withheld its opinion.

Q-34: Which ones are more likely to be recidivists?

TABLE 30

	TOTAL JUDGES		MALE JUDGES		FEMALE JUDGES	
	No.	Percent	No.	Percent	No.	Percent
Yes	59	41.5	54	42.5	5	33.3
No	4	2.8	4	3.1	0	0.0
No Opinion	68	47.9	63	49.6	5	33.3

Total 142 Male - 127 Female = 15

About 42% of the judges maintained (Table 30) that males were more likely to be recidivists, and another 48% withheld their opinions, but about half (49.6%) also withheld their opinions. Half of all the female respondents said that males were more likely to be recidivists, while the other half did not express any opinions.

SUMMARY AND DISCUSSION

This study of the judicial attitudes of Oklahoma judges toward feminism and female crime patterns did not reveal consistent or significant evidence of judicial bias against either feminist ideas or female criminality. The study, therefore, did not suggest a causal relationship between shown judicial attitudes and the noted increase in female incarceration in Oklahoma. The judges agreed mainly on issues that reflected nontraditional attitudes. They tended to agree on propositions that favored gender equality. In almost all cases, they tended to disagree on propositions favoring traditional attitudes. They seemed, generally, sympathetic towards women's equality with men in employment, toward equal pay for equal work, and toward women's quest for professional training in male-dominated occupations. Most judges agreed that both husband and wife should share domestic chores if the wife worked outside the home. Even on sensitive issues like sexual relations, a significant majority also agreed that women should be free to withhold sex as they chose. About 50% agreed that a single

woman should be allowed to have as many sexual partners as she desired. Seventy-three percent disagreed that a woman who asked a man for a date was being bold. Another 75% disagreed that a man had a right to expect his wife to accept his views of what the family could afford to buy. On the whole, more female than male judges appeared to be influenced by the female criminal patterns elicited in the questionnaire.

Concerning judicial attitudes toward female crime patterns, and treatment of such females by the judicial system, the responses reflected insignificant attitudes against females. The judges not only believed that the incidence of female crime was changing but they also believed that females were engaging in increasingly dangerous crime. The majority of judges withheld opinions on a few questions--especially the males--however, on most questions they expressed opinions that did not reveal a negative image of females or female felons. The majority indicated that they had noticed increased female case loads in their courts; however, the majority of female judges indicated that the increase had some influence on their sentencing decisions. A majority of both male and female judges did not believe female offenders were treated harshly in court, neither did they believe that females benefitted more from longer prison sentences. Whether women in prison were treated harshly was approached with great suspicion: most judges did not express an opinion. Interestingly, only the majority of female judges indicated that the women's movement was not responsible for changes in behavior of female felons, while a slight majority of male judges abstained from giving an opinion.

According to the study, the noted increase in the percentage of female incarcerations in Oklahoma might not have been due to judicial bias. Obviously, one could not totally reject the possibility, but the authors caution that the findings not be used to validate the courts' routines. The authors further did not intend the findings to suggest that Oklahoma women were different or "worse" than women nationwide. The authors noted, especially, that there was really no significant difference in response by gender of judges, although this did not apply to the unanswered questions.

In spite of the analysis, the authors expect some questions about the validity and reliability of the responses from which the conclusions were drawn. The authors thus recommend caution: The study described an attitudinal response. For, as the authors question with suspicion any set of responses which appeared to contradict the respondent's own practice, accuracy required the authors to draw the conclusions they did, given those responses. The judges' attitudes might still affect sentencing decisions--literature already has been cited in this analysis sufficient to support that possibility. The fact that many judges, sometimes the majority, often withheld opinions relevant to this issue already cast doubt on those responses. So, while the authors acknowledge those problems, they share with other researchers this problem: what method other than the questionnaire can gather data that truly reflects the judges' attitudes on issues such as the ones examined? The study thus exposed some limitations inherent in all data collected by questionnaire. Finally, in spite of any legitimate questions on the reliability of responses analyzed, the authors see a much bigger problem in the phenomenon of respondents who appeared to be saying one thing while doing quite the contrary.

REFERENCES

- Armstrong, G. (1977). "Females under the law-- Protected but unequal." *Crime and Delinquency*, 23, 109-119.
- Bailey, D. K. (1982). *Methods of social research*. New York: The Free Press.
- Bureau of Justice Statistics Bulletin. (1990, May). *Prisoners in 1989* (BJS Publication No. NCJ-122716). Washington, DC: National Criminal Justice Reference Service.
- Bureau of Justice Statistics. (1991, March). *Women in prison* (BJS Publication No. NCJ-127991). Washington, DC: National Criminal Justice Reference Service.
- Bureau of Justice Statistics Special Report. (1992, March). *Women in jail 1989* (BJS Publication No. NCJ-134732). Washington, DC: National Criminal Justice Reference Service.
- Cook, S. (1979, August). "Judicial attitudes and decision on women's rights: Do women judges make a difference?" Paper presented at the International Political Science Association Roundtable, University of Essex, UK.
- Johnston, J., & Knapp, C. (1971). Sex discrimination by law: A study in judicial perspective. *New York University Law Review*, 46, 747.
- Kirkpatrick, C. (1936). The construction of a believe-patter scale for measuring attitudes toward feminism. *Journal of Social Psychology*, 7, 421-437.
- Mann, C. R. (1984). *Female crime and delinquency*. Tusaloosa, AL: The University of Alabama Press.
- Mecoy, D. (1991, November 10). State tops nation in percentage of female inmates. *The Daily Oklahoman*, pp. 1-2.
- Moyer, L. I. (Eds.). (1985). *The changing roles of women in the criminal justice system: Offenders, victims, and professionals*. Prospect Height, IL: Waveland Press.
- Wikler, N. (1980). On the judicial agenda for the '80s--Equal treatment for men and women in the courts. *Judicature*, 64(5), 202-209.
- Oklahoma Department of Corrections. (1989). *Female offender task force report*. Oklahoma City, OK: Author.