In 1929 a group of men and women faced Peterborough’s magistrate after police had intervened in a particularly loud and raucous party. Charged with being found in a disorderly house, the men and women tried to convince the magistrate to be as lenient as possible. The men based their pleas for tolerance on their status as wage-earning, respectable married men with families to support, and this being a first offence in an otherwise moral life. The magistrate, however, enforced fines, pointing out that mere attendance at a party where there was alcohol and young single women signified their “neglect of duty” to their families. For the young women, the image of the hard-working family man didn’t promise leniency; instead, their pleas were based on mercy, naïveté, and repentance. Claiming they had never been in such an embarrassing situation, and they were “very sorry and would never do it again,” the women were allowed to go after a stern lecture on morality from the magistrate. These disorderly house arrests illustrate how men and women employed different defences to prove their innocence or justify their crime, and how the court responded with judgments shaped by the dominant social definitions of normal and proper gender roles. An analysis of the women most likely to come before Magistrate’s Court, the court’s claim to ‘knowledge’ about women’s crimes, and women’s own interpretations and defences of their crimes are the three themes of this article.

While a quantitative analysis of women arrested in the period from 1920 to 1950 emphasizes both the economic and social marginality framing these women’s lives, and the importance of changing policing concerns to the very definitions of crime, the knowledge of women’s criminality claimed by the magistrate and other legal experts exposes
competing discourses, one stressing the environmental causes, the other the inevitable seeds of immorality behind female law breaking. Legal experts’ explanations for women’s criminality were shaped by shifting class and gender power relations, by cultural traditions and moral anxieties. Although these definitions did alter over these decades, they consistently reflected social, economic, and gender expectations rooted in the established power relations of class and patriarchy.

Finally, women’s own interpretations of their law breaking are of special interest. Though sometimes represented by counsel, many others spoke alone, and even women with lawyers helped to construct their defences.3 And while newspaper accounts offer a slanted version of their stories, fashioned for the paper’s respectable readership, women’s own voices and agency are still visible, often revealing women’s attempts to actively shape the court’s agenda. Indeed, the very subjectivity of women’s stories may offer us the richest insights into how women perceived, and tried to control, the magistrate’s justice meted out to them. As Natalie Zemon Davis argues for women defendants in an earlier time period, women “shaped and moulded” their stories with “careful choice of language, detail and order to present an account that seemed meaningful and explanatory.”4 In many cases, women’s stories incorporated accepted themes of femininity and repentance, implying the need for leniency and a second chance. Fewer women, though quite aware of what was expected, mocked, or even rejected the knowledge of experts. Their challenges to the court speak to a current of resistance often forgotten in the history of women and crime.

Female Arrests and Male Magistrates

Previous examinations of women and crime in Canada have focused on women in conflict with the law in large urban centres in the nineteenth and early twentieth centuries, and sometimes on pivotal trials in the higher courts.5 My intention is to refocus our sights on women from a small city and its rural hinterland, who are brought before Magistrate’s Court in the mid-twentieth century. For over 90 percent of the Ontario women arrested at this time, justice started and ended with the magistrate,6 who tried almost all summary offences, as well as some felonies, and drafted indictments for cases destined for a higher court.
In Peterborough, the court also absorbed the responsibility for juvenile and family matters until a Family Court was established in the late 1940s. The magistrate worked closely with both the police and with agencies like the Children’s Aid Society and the Police Matron; they provided the magistrate with information on their suspects and clients, and often followed up with surveillance after sentencing.

Peterborough’s combined city and county Magistrate’s Court ruled a relatively stable rural and urban area, with an established manufacturing and service economy, an ethnically homogeneous population of Anglo/Celtic descent, and very little immigration in this period. Nonetheless, the city and county still experienced severe economic crisis during the Depression, as well as the upheavals of World War II, and local social reformers shared other Canadians’ fears of crime and social disorder in their midst.

Indeed, these definitions of disorder, and subsequent policing priorities, rather than law breaking itself, are made most visible through the surviving arrest statistics. Nonetheless, an extensive debate about the worth of such quantitative sources indicates the value of arrest statistics, if only as guideposts for changing policing concerns and as indicators of the social background of those who stood before the law. As European theoretical fashions place more analytical emphasis on the discourses constructing criminality, the stark picture offered by quantitative sources may be a useful reminder that those constructions had roots firmly planted in patterns of poverty and social marginalization.

Women who found themselves before the magistrate were predominantly poor and working-class; in the interwar period, a majority, representing numbers far greater than their presence in the local population, were domestics, whose work was characterized by low pay, low status, isolation, and transience. In the 1920s, domestics accounted for 52 percent, housewives 25 percent of all charges; these two occupations continue to dominate, with housewives becoming the larger group (45 percent), and domestics second (25 percent) by the 1950s, a reflection of the decline of domestic service, but the continued marginalization and dependence of women working within the household. Factory workers ranked a more distant third for arrests, and by the 1950s, the growing number of women in clerical occupations were just as noticeable as their blue-collar sisters (see figure 1).
Most men in the jail cells were also poor and working-class, but their arrests stood in stark contrast to women’s: men outnumbered women by 9 to 1, and were more likely to be charged with theft and robbery, violent and sexual crimes, and extremely frequent liquor offences. Sixty-nine percent of all women’s arrests, conversely, were for three offences: small thefts, ‘moral’ crimes such as prostitution, and especially vagrancy (see figure 2). A vagrant was defined as any “loose, idle or disorderly” person.
who was begging, without financial support, loitering, destitute, or a “common nightwalker or prostitute.” Vagrancy, in other words, could be interpreted broadly by the police and magistrate to deal with women who stepped outside prescribed roles as private, domestic and mannerly citizens. Women’s lower arrest rate than men and their incarceration for different crimes have been attributed to their socialization, opportunities for crime, and distinct cultural, social, and economic roles; the legal system, moreover, literally defined crimes (such as prostitution) with reference to gender norms.

Women’s arrests reflected changing social anxieties and definitions of crime: until World War II, vagrancy consumed a vast amount of the police and magistrate’s time, but by the postwar period, it was women’s alcohol offences. In the 1920s, more women were arrested for making and selling, than drinking liquor, and in the Depression, moonshining could still result in a miserable three months in the county jail. By the 1950s, however, consumption of alcohol, not its sale, is the perceived problem, not because every bootlegger had gone out of business, but because the possibility of obtaining cheap beer had cut into the trade. Whether women’s actual drinking patterns had changed, a possibility given the fading memory of the temperance movement and the relative freedom of the war years, there is no doubt that authorities were enforcing a new concern with women’s public, disorderly conduct while under the influence of liquor.

Political or economic crises also highlighted new ‘problems’ for the authorities to tackle. During the war years, for example, when there was increasing panic over venereal disease, more local women were sent to the reformatory for treatment of VD. The cycles of the economy undoubtedly had an effect on types of offences committed, although not producing a simple cause and effect of all offences increasing during hard times, for charges could skyrocket in prosperous times, such as the late 1920s. The effects of the Depression, however, were still visible in the increasing arrests for prostitution at the very beginning of the decade, though one of the most significant effects of Depression may have been an increasingly harsh magistrate whose sentencing reflected his fears that the economic crisis was causing social disruption, producing ‘bad girls in a bad time’ (see figure 3).
### Table 1. Arrests by Decade

<table>
<thead>
<tr>
<th>Charge</th>
<th>1920s (in percent)</th>
<th>1950s</th>
<th>1940s</th>
<th>1950s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vagrancy</td>
<td>51.3</td>
<td>46.5</td>
<td>41.7</td>
<td>19.6</td>
</tr>
<tr>
<td>Vagrancy/prostitution</td>
<td>9.4</td>
<td>18.1</td>
<td>7.4</td>
<td>—</td>
</tr>
<tr>
<td>Bawdy/disorderly/morals</td>
<td>6.0</td>
<td>4.7</td>
<td>6.1</td>
<td>—</td>
</tr>
<tr>
<td>Theft</td>
<td>10.3</td>
<td>9.4</td>
<td>9.8</td>
<td>16.3</td>
</tr>
<tr>
<td>Intoxication</td>
<td>1.7</td>
<td>10.3</td>
<td>21.5</td>
<td>27.8</td>
</tr>
<tr>
<td>Selling liquor</td>
<td>6.8</td>
<td>4.7</td>
<td>0.6</td>
<td>—</td>
</tr>
<tr>
<td>Suicide/insanity</td>
<td>6.8</td>
<td>4.7</td>
<td>0.6</td>
<td>3.3</td>
</tr>
<tr>
<td>Assault/manslaughter</td>
<td>0.9</td>
<td>0</td>
<td>4.3</td>
<td>7.7</td>
</tr>
<tr>
<td>Other</td>
<td>6.8</td>
<td>1.6</td>
<td>8.0</td>
<td>25.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Number of charges</strong></td>
<td><strong>117</strong></td>
<td><strong>127</strong></td>
<td><strong>163</strong></td>
<td><strong>209</strong></td>
</tr>
</tbody>
</table>

*a Any prostitution arrests came under vagrancy in this decade.

*b Of these charges, 21% came under the Child Welfare Act, 19% were public disturbance/obstructing police, 15% were false pretences/forgery, 13% came under the Juvenile Delinquent Act, 5% were perjury/material witness, and the rest were single charges for various crimes. Overall, child welfare charges would have been 5% of the total charges in this decade.

### Table 2. Outcome of Arrests by Decade

<table>
<thead>
<tr>
<th>Outcome</th>
<th>1920s (in percent)</th>
<th>1930s</th>
<th>1940s</th>
<th>1950s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discharge</td>
<td>36.8</td>
<td>17.3</td>
<td>7.4</td>
<td>24.6</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>7.6</td>
<td>11.8</td>
<td>12.9</td>
<td>13.1</td>
</tr>
<tr>
<td>Acquitted</td>
<td>0.9</td>
<td>6.3</td>
<td>17.8</td>
<td>1.4</td>
</tr>
<tr>
<td>Fine paid</td>
<td>1.7</td>
<td>3.1</td>
<td>16.0</td>
<td>19.8</td>
</tr>
<tr>
<td>County jail</td>
<td>13.7</td>
<td>40.9</td>
<td>31.3</td>
<td>16.0</td>
</tr>
<tr>
<td>Provincial jail</td>
<td>30.8</td>
<td>16.5</td>
<td>8.0</td>
<td>15.4</td>
</tr>
<tr>
<td>Hospital</td>
<td>5.9</td>
<td>1.6</td>
<td>6.1</td>
<td>8.7</td>
</tr>
<tr>
<td>Other</td>
<td>2.6</td>
<td>2.4</td>
<td>0.5</td>
<td>1.0</td>
</tr>
</tbody>
</table>
Policing concerns were focused sharply on youthful offenders. Women in their teens and twenties made up the about two-thirds of the arrests, with women in their twenties slightly ahead of their teen sisters, save for the Depression years. Overall, teens accounted for at least half of the theft and prostitution charges; the majority charged with streetwalking and vagrancy were also young, single women, with older and married women more likely to be charged under the disorderly and bawdy house sections of the Criminal Code. Middle-aged women in their thirties and forties were often taken in for vagrancy, with prostitution and theft increasingly displaced by alcohol as their cause of arrest. Age and occupation clearly played a role in overdetermining women’s likelihood of being arrested, although aged women and widows, with known high levels of poverty, remain a small a percentage of arrests. Their absence might be explained by the concern of the authorities with very visible signs of poverty and public rejection of appropriate sexual and social roles — hence their concentration on young women in the streets.
Given reformers’ views that it was imperative to resocialize wayward girls at a young age, the strict sentencing of these women becomes understandable. More women were sent to Mercer for prostitution than for any other crime, and for young women, incarceration was an especially strong probability. From 1920 to 1949, 75 percent of the teens arrested on morals charges went to jail, and 56 percent of them had sentences of over three months, more severe terms than for theft charges. These young women were sent out of town, to be removed from the source of their corruption, to the provincial Mercer Reformatory (or the Catholic alternative). As Carolyn Strange argues, by the 1920s local magistrates were heeding the advice of Mercer’s superintendent, who claimed that, with flexible, indeterminate sentences, she might have an opportunity to reform the younger women — though not the older, experienced criminals.

Unlike age and occupation, religion was not a notable variable in arrests, save for the slight over-representation of Pentecostals and Salvation Army women for moral offences in the 1930s. Significantly, Irish Catholics, highly visible in nineteenth-century studies, are not noticeable here: largely early settlers in the area, Irish Catholics may have assimilated well enough to the social order that they were less marginalized by poverty than their earlier cohorts. The notion that the Irish were more prone to crime, however, was still a feature of the social imagination, as evidenced by the police recorder who wrote in unusually large letters “Irish” beside the rare jail entry who claimed such a birthright. Though absent from arrest numbers, religious tension was displayed in the local court: one judge’s confidential justification of his controversial sentencing of a Protestant/Catholic couple, for instance, rationalized that to treat either husband or wife differently would “raise the old cry of Catholic versus Protestant [which] we have had enough of [here].”

Local judges and police also publicly claimed that crime was imported into Peterborough, yet the majority of arrests were native-born Canadians and resident Peterboroughians. The minority of women from outside the county were more likely to be vagrants, appearing more frequently after the transiency of the second world war years. Moreover, the crown attorney’s claim that the rural hinterland — with some townships nicknamed the Badlands — nurtured immorality and crime was also suspect, as least
in terms of women’s misdemeanours. In tandem with rural depopulation, the proportion of county women arrested declines, though the urban/rural locale consistently shaped differences in arrests. It is not surprising that rural housewives were more likely to be arrested for making illegal liquor — one of the few examples of the female crime ‘entrepreneurs’ found in large cities — and that the county also sported few disorderly and bawdy houses: they were so obvious that local township councils passed public resolutions demanding that certain addresses be “cleaned up.”

Even Peterborough did not claim a major prostitution problem. After a flourish of concern in the Victorian and Edwardian era, newspapers’ and reformers’ interest in prostitution declined. By 1930, in fact, law enforcement officers reassured local citizens that prostitution had virtually disappeared as the city’s “houses of ill fame” had been “cleaned up.” Since this is unlikely, it is possible that public scrutiny of the issue had declined as prostitution became a scattered enterprise, dominated by streetwalkers, with no fixed and glaring red light district in the city.

Prostitution could also have been more marginal because of the close proximity of the city of evil: Toronto. Given the possibilities of anonymity, and a more supportive work culture, many women might have opted for the big city over what became known later as ‘PeterBOReough.’ This may also account for the extremely low rate of prostitution charges for three-, four-, and five-time repeaters.

Strict sentencing for moral offences remained a constant throughout the reign of two magistrates, though for other crimes incarceration did decrease by the postwar period. In the 1920s and 1930s, 44 percent and 57 percent of women were sentenced to some time in jail, even for crimes as innocuous as vagrancy, but by the mid 1940s more women were paying fines for all their crimes (especially alcohol offences), and walking out of court. A simple equation of increasing leniency over time, however, is misleading. Even though the magistrate was more likely to acquit or give suspended sentences to women by the postwar years (perhaps reflecting their use of attorneys) almost one-third still spent time in the county jail, and provincial jail terms could be one or two years.

Very few women who came before the court needed a second lesson. The majority (60 percent) of women arrested were first-, and one-time offenders, most likely cautioned or sometimes treated to an unpleasant
stint in the county jail. Offenders with three or more offences were a small minority, recidivists with five offences a mere nine over four decades. Women with long histories of trouble with the law may have left for other cities, as the reigning magistrate came to know his clients, and a clear pattern of increasing severity of sentence, and more likelihood of confinement to the ancient and depressing county jail, existed with repeat offenders. Given the types of offences most recidivists were arrested for, almost exclusively vagrancy and liquor abuses, it is clear that the majority of women in constant trouble with the law were often poor, homeless, sometimes alcoholics whose need was financial aid, perhaps family support, detoxification, and housing.

These, then, were the women who had to face magisterial justice. The majority were one-time offenders who made temporary transgressions of the law, and most came from backgrounds where they lacked economic security and social comfort. Many were housewives, unemployed, unskilled, or domestic workers. Born into a system characterized both by economic inequality and patriarchal power relations, women's confrontations with the courts were indelibly shaped by their location within that system.

The men who dispensed justice to these women in Magistrate's Court also shared similar backgrounds. The Peterborough Court was presided over by O.A. Langley, until the mid-1940s, when W.R. Philp, who also became the Family Court Judge, took over. Both were university-educated, highly respectable community members, with close ties to legal circles, fraternal organizations, and churches in the community. Langley, a QC, who presided over the court for more than thirty years, came from an established Lakefield family; his long reign as a “strict” magistrate earned him the nickname of “thirty days or thirty dollars Langley.” Trained as lawyers, both men lacked the infamous Colonel Denison’s contempt for the profession, but like him, they were less concerned with the intricacies of law than with the context of the defendant’s misdemeanour and her moral character. They saw their role as a composite of a judge, social worker, and arbitrator, and their pronouncements as emblems of morality for the community.

Perhaps their direct, moralistic pronouncements and speedy dispensation of justice facilitated the court’s acceptance by the working class.
Working people did bring their conflicts to the magistrate, though sometimes as a last resort, or in an attempt to shame their adversaries: women transferred their children’s neighbourhood fights to the court, landlord and tenant disputes were aired for revenge (during World War II, a boarder was charged with biting her landlord over a rationing dispute), and more than one dance or party that finished in physical brawl ended up in court.\(^3\) At the same time, women’s brushes with the law for moral offences or theft contravened notions of working-class respectability, distancing them from their own community. One distraught mother, for instance, wrote to the Mercer Reformatory, pleading that her daughter’s presence there be kept a secret; otherwise, “if she returns home it will be hard to reform her if this small community finds out.”\(^3\)

The magistrate manoeuvred with considerable flexibility, wielding both formal and informal authority as he settled cases. Although women were dealt with speedily once in court, they could be remanded a week or more after arrest, while authorities renewed their surveillance, collected information, or gave them time to repent. Women might be bailed out or released on their own recognizance, though the magistrate, fearing flight from town, could also keep them in jail. Even more important, in the interwar period especially, many cases never made it to court. A 1926 *Peterborough Examiner* article, “A Day in Police Court,” which characterized the court’s offerings as “Justice, Mercy and Humour,” noted that many cases, especially family disputes, were settled informally: “what is not generally known to the public is that hundreds of infractions of the law are never aired” in court. Police Chief Sam Newall often held his own informal “receptions” in his office or the courtroom, where a personal lecture was the only sentence. This method was perceived to be useful as a first warning to young offenders and as a means of shielding “respectable citizens” from a court record. “Unofficial all this,” breezed the reporter, but one of the “best” aspects of the administration of justice in Peterborough.\(^4\) This reporter’s disclosures also laid bare the process that women faced during the weekly court hearings. The first thing the prisoner saw, when she was escorted into the building, possibly from a dreary jail cell, was the “the Magistrate, Chief of Police, and the Crown Attorney and several lawyers and policemen, chatting and swapping stories in the Chief’s office in the lobby,”\(^4\) a scene that
could only confirm her fears that the authorities represented a united, antagonistic opponent. Once in court, she might also face spectators and the press. Located within the old city hall, near the city centre’s market square, the court was conveniently placed for the casual as well as the dedicated observer.

Like the nineteenth-century police court, this one was represented in the local press in a manner that “affirmed” for the better off “their comfortable” and justly deserved place in the existing social hierarchy; court reporting reminded the middle classes of the gulf between the respectable classes and the criminal, and warned the working class against falling from respectability into crime. In the interwar years, the comical, melodramatic, and salacious depiction of defendants was sometimes evident in the local newspaper, though by the 1940s, this long tradition of portraying the court as popular theatre was declining, and fewer spectators crowded the court. Nonetheless, the embarrassment of exposure — particularly evident in a small town — still existed for women before the court.

In contrast to the spectacle of the court was the authority invested in the magistrate. For defendants and spectators, the symbols, rituals, and structure of the court reinforced the idea that the magistrate’s knowledge was ‘just and right, thus endowing it with great power.’ When the female prisoner entered the courtroom, she found dignified rituals that stressed the authority of the magistrate, who sat on a raised platform, was addressed as Your Honour, and whose comprehensive knowledge of the law endowed him with further authority. Looking down on the defendant, he consulted with the police beside him, whose advice was clearly valued more than the stories of the women defendants. Defendants were forced to recount personal aspects of their lives in this public forum, and they sometimes spoke without counsel’s aid, interpreting the perplexing procedures of the court as best they could. This “coercive control of scene, scheduling, staging and ritual,” concludes Pat Carlen, legitimizes the justice handed out in Magistrate’s Court, “suppressing the incongruity between abstract law and the realities” of women’s stories displayed in court. Those stories were also given their own particular interpretation by the magistrate and other experts surrounding him; like the women defendants, they too constructed tales of female crime.
Tales of Female Crime

The pronouncements about women lawbreakers made by the magistrate, the legal profession, social workers linked to the court system, and other experts presented a picture of women’s criminality from the top down that, as it was created, justified, and circulated, became a set of accepted truths shaping the responses of police, judges, and social workers to women, and ultimately, also affecting women’s responses to their own situations.

The views of these experts could differ: social workers, for instance, increasingly used psychological models to understand and reform women criminals, while police remained wedded to analyses shaped by the imperatives of preserving law and order. Nonetheless, in both their private assessments and their public pronouncements a common theme emerges: the experts spoke two languages, one of structural causes and cures, and another of irretrievable victims of character failure, with the latter, darker view tending to dominate. These competing discourses paralleled the contradictory thinking of twentieth-century criminologists who utilized a scientific language of bad environment, structural causes, and possible cures for women’s crime, yet paradoxically linked women’s law breaking to deep-rooted psychic deficiencies originating in their biological makeup.46 Characterized by a deep pessimism and embodying a rationalization for the existing class and gender hierarchy, the second discourse saw women lawbreakers — and especially repeaters — as morally deficient in an unalterable way. As late as the 1940s, a magistrate’s report on a young female offender with repeated convictions for incorrigibility concluded that she was just “no good,” a young woman “at war with society.”47

Many social service workers and attorneys argued that, since women became criminals because of the deleterious effects of family life, they should be accorded a second chance. Even repeat female offenders, argued the Police Matron, who was ideologically positioned close to the Children’s Aid Society (CAS) in the interwar years, needed repaired family lives, “love and charity” to correct their behaviour. Paradoxically, though, the matron added a more pessimistic view: women offenders, she said, were “of low mental calibre and indifferent home surroundings,” and were often “diseased,” as they exercised “very little [sexual] self control.” Although
she noted that some local families were too poor to support their children, she concluded with the observation that “wickedness and immorality were rampant” in a “certain class” in the city. One of her solutions to female crime was sterilization of the feeble-minded.48

The matron’s double vision of structural causes and character flaws causing women’s crime was shared by some members of the CAS. In the interwar period, the CAS Board, dominated by local clergymen, middle-class housewives, professionals, and law enforcement officers — Police Chief Sam Newall, and at one time his wife, were on the board — expressed concern that poverty, especially of single-mother families, would lead to crime. Yet once they perceived signs of immorality, sympathy quickly disappeared. Judgment was severe for women who were not “living on the straight and narrow”49 — women deemed sexually promiscuous — and delinquency was still attributed to “lazy careless mothers.”50 By the late 1930s and war years, professionally trained social workers increasingly emphasized diagnoses shaped by psychology (later psychiatry) case work, and an understanding of the “emotional roots” of delinquency and crime.51 This emerging discourse of psychology and its consequent forms of regulation stressing personality rather than moral alteration, however, can also be seen simply as new means of “pathologizing women in a disciplinary society.”52

Furthermore, well into the 1940s, the themes of immorality and character weakness causing crime characterized the views of some CAS officials. In a rural area near Peterborough, the CAS advertised its work by presenting standard tales of crime and neglect in order to gain financial and volunteer support. Analyzed according to their narrative structure — their setting, fixed villains and heroes, and resolution — these stories presented the CAS as saviour, suggested the possibility of resocializing children, but also incorporated images of hopelessly debased adult women. The hillbilly tale, for example, described an isolated, rural family where “no one knew what a bath was”53 in which neglect and violence prevailed. The children were rescued, bathed (perhaps saved by this symbolic cleansing), then adopted. An urban tale focused on the criminal effects of economic and moral mismanagement by parents, with one wartime variation of this tale highlighting the delinquent, immoral girl caused by the absent, materialistic working mother. “Show me a home where
the inmates go to Sunday School or where there is a nice clean wash out on Monday morning” said one CAS official (indicating the emphasis on women’s moral responsibilities) “and there will be no problems.” 54 A pessimistic theme of character failure thus remained a subtext in the tales, even as other social workers were trying to establish a counter-discourse of structural causes and logical psychological cures.

Social workers’ fears of endangered morality were focused primarily on the poor. While middle-class crime was mystified as a rare, “particularly tragic” occurrence, or dismissed as unbelievable, 55 the poor were seen as uncommonly prone to moral lapses. Obviously, class differences often separated social workers from their clients: the CAS, capturing this in language, referred to its volunteers as “the ladies” and its clients as “women.” A similar association between crime and poverty, combined with a strong sense of social distance, was evident in the commentary of lawyers: in a public speech in the 1940s, a well-known local lawyer explained to his middle-class audience that the magistrate’s job was to “understand the other half of the world and how they live.” 56

Accompanying these class distinctions came an image of the alien, the outsider, the foreigner, that sometimes encapsulated the meaning of criminality for the police and judiciary. In 1933, for instance, County Court Judge Huycke lectured the Quarter Sessions about the current incidence of “repugnant, beastly crimes” and warned almost hysterically of an accelerating Depression “crime wave.” Combating crime was a “patriotic” duty, he concluded, because it was primarily the result of “immigrants from foreign countries [especially the United States] who bring their vices with them.” 57 These narratives reinforced a polarized view of ‘them and us’: the image of outsider, the ‘other’ was a comforting explanation for crime that obscured a critical examination of the existing social structure.

Nowhere was the association of poverty and immorality, and the externalization of crime, more dramatic than in the Badlands report of 1916. Asked to examine the “degenerate and wretched” conditions that a judge and the crown attorney believed were causing escalating criminal acts in the outlying areas of Peterborough county, 58 the grand jury duly reported — over the vigorous protests of some rural community leaders — that extreme poverty had resulted in a “careless and degenerate”
people predisposed especially to sexual crimes. Like the pronouncements of the Police Matron, the report embodied two messages: on one hand, it blamed “not the people but the conditions of securing a livelihood”\(^59\) in the area; on the other, it presented images of a people hopelessly lost to immorality and lust. Replete with veiled warnings of race suicide, including the proliferation of “idiocy” in the population, the report defined public perceptions for years to come, becoming a species of folklore about hillbillies similar to the stereotypes associated with white Appalachia.\(^60\) Ten years later, a Toronto expert was still urging the Ontario government to clean up this “foul canker” of immorality, where “men live like animals . . . and low class women . . . reject legal marriage.”\(^61\) Ironically, a domino effect of externalizing crime existed: while Peterborough legal authorities denounced the immorality in the rural Badlands, Toronto government officials privately criticized the same Peterborough authorities for being too lax on their rural hinterland.\(^62\)

Within the circle of experts commenting on women’s criminality, the magistrate occupied a position of critical significance, and not only because he handed out sentences. By establishing standards of appropriate behaviour and by justifying them with moral principles and public lectures, in the courtroom and the later in the press, the magistrate was creating powerful knowledge about women and crime, which carried with it messages about respectability, sexual morality, and proper gender roles; his pronouncements became part of the dominant discourse on criminality. Like social workers and legal practitioners, the magistrate indicated sympathy for the structural causes of women’s crimes, but also condemnation of women’s moral and character failure. The latter theme was especially discernible in his public pronouncements, which must be read, in part, as intended morality lessons.

The magistrate’s awareness of women’s crime, drawn from his class background and social milieu, his experience with the legal system, and the prevailing views of other experts in law and criminology, led him to judge a woman in relation to her social stature in the community, her sexual morality, and her role in the family. In his deliberations on women’s sexual morality, the magistrate or ‘Cadi’ was assisted by the police and, by the 1940s and 1950s, by more social workers and doctors. In the interwar period especially, the Peterborough police chief had a network
of local contacts who passed on information on his suspects’ whereabouts, actions, and friends. In his sentencing report for one woman, Langley suggested the prison might obtain better information from Police Chief Newall, “who has a pretty full and accurate knowledge of her doings for some time past.”63 In court, the police chief might lean over and offer an observation that although the woman appearing had never been charged before, “he had seen her . . . she was a troublemaker,” for she was on the streets, living with a married man and refused to get a job or return home to her family.64 The magistrate would heed his allegation.

A woman’s moral character was defined in terms of whom she kept company with, and her placement on the sexual purity/promiscuity continuum. While vagrancy could be a fairly innocuous crime, it depended on where, when, and whom you were arrested with. Women picked up at night in the company of men were immediately suspect. In the thirties two young women found themselves stranded near Lakefield after their “chance dates” took off on them.65 They found refuge in the Lockmasters building, but were arrested for vagrancy and spent time in jail, a severe price to pay for being stood up.

Women’s sexual morality was so important that it could influence the magistrate’s deliberations on charges other than vagrancy and prostitution. When a twenty-one-year-old rural woman, Eva, and her mother, Amy, were arrested in 1921 for theft and possessing stolen goods from nearby cottages, the daughter’s sexual morality was put to trial as well, for she had married a younger man of seventeen without securing a divorce from her previous marriage. Despite the fact that the whole family was first accused of theft, charges were soon limited to the two women. Because it was household items such as blankets that were stolen, the men argued they would not have recognized them, not being acquainted with housekeeping matters. Even more damning for the women was Eva’s illicit relationship, which both the mother and daughter were supposed to take responsibility for. Langley implied that he would send Eva to Mercer even if she was acquitted for theft: “rather than permitting you to live in immoral condition in your parents’ home.”66 Both mother and daughter ended up in the Mercer Reformatory. The men stayed home, presumably to look after the household.

Concerns about women’s sexual morality were linked to racist fears
of miscegenation. Any implication of white women’s intimacy with non-white men was cause for concern. In 1940s, when a woman was picked up for vagrancy, Chief Newall opened the courtroom discussion by telling the Cadi that “she is associated with a local Chinese [which] is not a desirable condition.” Another woman imprisoned by Langley for vagrancy was accused of “misbehaving with the Indians out on the Reserve” as well as staying out late with men. Women found with Chinese men were immediately suspected of prostitution. During World War II the magistrate had to chastise the police for bringing a vagrancy case against a Chinese man, despite a complete lack of evidence, but the white women found in his company were still charged with prostitution, and despite denials of guilt, they were fined.

The magistrate’s understanding of crime was also shaped by a woman’s economic status. Most women charged with theft pilfered small items — like the young women who stole swimmers’ clothes from Inverlea beach or the bowling-alley clothes thief apprehended during the Depression. A destitute, poverty-stricken defendant might elicit sympathetic comment from the magistrate, who saw a connection between poverty and crime, but this did not mean he excused her actions. Economic circumstance could play a role in the magistrate’s sentencing, but he still registered his moral disapproval in his courtroom lecture. Theft indicated a weakness of character: the fact that you were poor didn’t mean you had to steal, in his view.

Women’s status within their families and their acceptance of prescribed roles of daughterly obedience, domesticity, and motherhood were also important to the magistrate. Legal authorities made sense of a woman’s actions in terms of the familial and domestic role she had played, or the one she promised to play in the future. Like the CAS, the magistrate believed that a lack of parental and especially patriarchal control could lead to young women’s crimes. A suspended sentence was found for one young woman, provided she “return to her father’s home until her husband can provide a new one for her.” Almost a decade later in 1938, Langley informed a rebellious teen who tried to “bolt” from the courtroom that she would have to face jail because she had “to learn she can be dealt with” by “authority” figures, including her parents.

The theme of parental authority is often played out in another way:
some distressed parents requested the magistrate’s intervention when their daughters were misbehaving. In one case in the thirties, a father removed his daughter from a house where she was drinking and partying with older men and took her to the police. Fifteen years later another father told the court that his paroled daughter was “uncontrollable,” staying out all night and that “he didn’t want her back.” Parents often tried to use the court system in their struggle to maintain economic and moral control over their rebellious daughters. The magistrate, though sometimes troubled by the knowledge that women were trying to escape unhappy families, still saw the reconstitution of the nuclear family, with a male breadwinner, domestic mother, and obedient daughter, as the best solution. An emerging emphasis in the 1940s on family therapy as a form of rehabilitation may have simply institutionalized this solution through the informal means of “socialized justice.”

Finally, demeanour was also considered when the police and the magistrate assessed a woman. One woman, accused more than once of selling liquor illegally, entered the court after “a minor riot scene in the chief’s office in which two languages were used — English and profane.” The court reporter noted that she was “pressured” to plead guilty (with threats that more charges would be laid because some of her customers were minors) and was sent to the most unpopular place where the magistrate punished non-reformables: the county jail. Demeanour was taken to an almost ridiculous length in 1949 when the crown attorney, in dealing with a complicated assault case materializing out of a dance fight, suggested that the two women who were chewing gum in court were probably the guilty ones because nice women didn’t engage in such “crude” behaviour.

One’s class and social circumstances, role in the family, and feminine demeanour — connected by the themes of sexual purity, morality, and domesticity — were all part of the magistrate’s understanding of both the prevention and cure for crime. That women could be condemned so severely, for crimes such as having premarital sex, or stealing a dress, should offer a sobering antidote to any sweeping charges of paternalism within the justice system. Like other experts, the magistrate spoke more than one language: while he voiced sympathy for the economic problems experienced, for example, by single mothers, he also censured
those whose moral character failed them. Ultimately, it was the second language that took precedence and endowed the court with tremendous authority. As Ann Worrall, drawing on Foucault, argues, the appearance of coherence, the denial of contradiction between discourses, gave legal authorities the authority to ‘know’ the women before them.\(^7\) Whether that knowledge was based on the letter of the law or on common-sense notions about morality and human nature, it came to define an understanding of crime that denied its basis in power relationships and placed its origin in moral failures. Women who came before the court had to justify their stories with reference to this authority, though occasionally they also attempted to mock, reject, or subvert it.

**Pardon Tales from Magistrate’s Court**

Silence and physical rebellion were the responses of some women brought before the magistrate. As one woman listened to her sentence for theft of some clothing and a small amount of money from the house where she was staying, she “hung her head, trying to hide from view.” Don’t hide, Magistrate Langley chided her, and humiliating her even more, added: “I’ve seen prettier girls than you.”\(^8\) Others indicated their renunciation of the process by lashing out with violence, even against themselves: the woman charged with biting her landlord was so incensed she smashed the toilet in her holding cell, while another woman turned her anger inward, and tried to swallow a bottle of ink at the police station.\(^9\) Once imprisoned, women might remain silently unco-operative; a pregnant teenager, ostracized by her family, was sent to Mercer in the early thirties for vagrancy but she couldn’t answer questions about her place of residence when admitted to hospital for the birth (as they wanted to bill the family). Prison officials were quick to assume her “mental deficiency” (as they did in other cases); one wonders whether her silence actually signified trauma, anger, or rebellion.\(^1\) Women’s attempts to explain, deny, or excuse their crimes indicate that a minority of defendants did not accept the court’s definition of immorality or their own criminality. Many more began by arguing their innocence, but seeing the power of the court to define the situation, then explained the reason for their crime or professed repentance. They
appealed to the court’s mercy, or even its sense of humour, but rarely to principles of justice. In telling their version of the crime, women often interpreted their actions in ways that “established their status as moral beings,” for example, as dutiful daughters or virtuous mothers. Women’s courtroom tales may therefore represent both an affirmation of court’s power over women and a form of defiance. While their stories were used to secure release, they may have also reinforced those very discourses ensuring women’s social regulation by patriarchal ideology.

In the 1920s and 1930s some women played on the theatrical and comic traditions of the court, especially for vagrancy and alcohol offences. As the theatrical image of the court declined, fewer women adopted such roles, and as alcohol offences became more routine, the magistrate was less interested in hearing about women’s extenuating circumstances. In the 1930s, however, “Bridget,” a woman apparently well known by the authorities, seemed to purposely fabricate stories to explain her latest arrest for public intoxication, at the same time that she mocked deference to the legal authorities. After one arrest, she denied the charge, then turned about-face to pretend that an honourable policeman’s word could not be doubted: “If he says I was drunk, I must have been for a policeman never lies” she told the Cadi. Playing along, the crown attorney thanked her profusely and added that her word was “one of the highest tributes the police could receive.” Bridget then explained how she became drunk: “I was doing a heavy wash,” she explained, “putting coal oil and washing soda in the clothes to whiten them, when the fumes overtook me.” Seeing the magistrate’s doubt, she added a second story: “I went out to pick beans in the garden and the sun struck me so much that I can’t remember any more.” When neither story was accepted, she responded to her sentence of ten days or ten dollars by saying she couldn’t pay the fine; moreover, during her last stint in jail, her house was robbed, so that the police would have to do extra duty guarding it for her — as if to imply it wasn’t worth the court’s time and money to lock her up.

The press relished her stories as examples of the day’s entertainment in the prisoner’s dock; at the same time, it is clear that Bridget is participating in the performance, perhaps even hoping for a sympathetic ear from the magistrate with her image of the industrious washerwoman, so intent on producing a white wash that she became drunk in the process.

‘Pardon Tales’ from Magistrate’s Court

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Other women, though less inventive than Bridget, also tried to persuade the magistrate that their alcohol offences were trivial, requiring no punishment. They usually implied that their crime was out of character; as one woman pointed out, she was working and supporting an aged mother, surely a sign of a moral and dutiful daughter, and her “celebration” with alcohol simply “carried her” away “because she was so happy” to have a job. A county resident, she was offered a discharge if she left the city.85

Occasionally, a vagrant told her story with humorous disdain, only to receive the magistrate’s obvious disapproval: Langley’s temper was roused when a young female Depression hobo, arrested for hitchhiking near Peterborough, treated her court appearance as a joke, and confidently referred to her long travels across the provincial highways. She was treated to a stiff sentence in Mercer and could only secure satisfaction by impartently feigning a “Thanks Judge” to the magistrate as she left the courtroom.86 Other vagrants were luckier, especially if they promised to make themselves scarce; in some cases, this was part of an informal deal to ‘git out of town before sundown,’ thus saving the municipality money for jail time. One such woman promised she would immediately “return to Montreal on the noon train accompanied by the local man who was with her.”87

Some one-time offenders used stereotyped images of femininity, such as women’s concern with their appearance, in their tales. One woman arrested for drunkenness, for instance, inquired if she could be released to go shopping and get her hair done. The magistrate asked whether she might lose her way on the way to the hairdresser and end up in a beverage room, but she assured him not. She was eventually released. Another woman, accused in the 1950s of taking part in a brawl at a gas station, based part of her defence on the kind of shoes she was wearing. I couldn’t possibly have kicked down that glass door, she protested, because I was wearing my toeless shoes and I would not have been silly enough to purposely break my toes.88 Feminine deportment could also be utilized in women’s defences: those who “broke down and wept,” who told the magistrate of “all their recent trials and tribulations,”89 or who pleaded their cases contritely, implied the court reporter, were viewed more leniently than those who swore at the magistrate.
Considering that many women arrested were out of work or laboured in low-wage jobs, it is not surprising that they claimed poverty as their rationale for theft. It is hard to imagine a more pathetic tale than that told in the early Depression, when an unmarried seventeen-year-old mother working as a servant admitted that she stole some baby clothes and a paltry amount of cash from her employer. Though the court reporter was sympathetic, the magistrate still gave her a short jail term, probably because it was her second offence. Similarly, one woman sent to jail in the 1940s for selling moonshine as well as collecting welfare was severely sentenced, even though she tried to argue that “welfare only paid $8.00 a month, not enough to live on.” Her sentence was undoubtedly shaped by the fact that her husband was a repeat offender, and because of suspicions passed on to the magistrate that she was also engaging in prostitution.

Sympathy for economic tales declined quite obviously after the Depression, although stealing to literally feed one’s family might result in the dispensation of mercy. In 1942 a young mother was let go after she took some tea from a store; she persuaded the magistrate that “her family was destitute” because her unemployed husband “had finally found work, but had not yet received a pay check.” When there were no such heart-rending circumstances, the penalty could be stiffer. In another petty theft case, the magistrate announced he “didn’t believe” the defendant’s carefully constructed alibi when she was charged with stealing bottles of perfume from a store. He noted that she was living with a man in a hotel room, a sure sign of immorality; moreover, her theft of a luxury item did not elicit his sympathy. Lacking evidence, though, the frustrated magistrate could not convict her.

Perhaps becoming aware of the magistrate’s predilection to look askance at poverty as an excuse, women tried other strategies, such as blaming it all on one’s accomplice, as both women employed in a hotel purse heist tried to do, or claiming a misunderstanding, as did a woman charged with passing a bad cheque, who declared “she intended to pay the rest and didn’t expect the merchant to take her to court.” In trying to decide how much destitution to claim and how much moral guilt to assume, women were in a difficult quandary. If it was a crime unprecipitated by obvious destitution, an open confession might be the best strategy. For example, two women, one with alcohol problems, executed
a common female robbery: drinking with, then stealing from a man once he passed out. On the advice of counsel, they pleaded guilty, but one justified her actions by explaining that the man’s constant boasting and flaunting of all his money before them simply told her that “they had a greater use for the money than him.”

While defendants like Bridget tried to play into the theatrical context of the court, some crimes, such as prostitution or child neglect, were viewed too seriously to contemplate such a tactic. Women who defended themselves against charges of bad mothering needed more than poverty to explain how they could reject this ‘natural’ impulse. During the World War II, one distraught woman, for example, tried to explain her infant daughter’s abandonment in a tale that wove together destitution, isolation from familial protection, and her status as an abandoned soldier’s wife. She tearfully recounted how she had been on relief before the baby was born, then left to work to work outside the city as a domestic for six dollars a week, “not enough to send back money for the baby.” She wasn’t allowed to go back to her father’s house, nor could she find lodgings allowing a child. “They say I’m to blame, but I wasn’t,” she concluded.

Women must have also been aware that charges for prostitution could have serious consequences. It is not surprising that young women — sometimes mere teens whose “precocious sexuality” was defined as criminal by parents and police wedded to the view that premarital sex for women was immoral — who were arrested on morals charges implied that sexual liaisons had never been consummated, even if they had stayed out all night with a man. One young woman tried to convince the magistrate she had only camped out in a friend’s car. Once jailed, those charged with prostitution might indicate remorse; one such woman “thanked God for sending” her to jail to “teach her a lesson” and change her ways, though even this could have been a strategy to win early release.

Some women, though, were quite unrepentant. Although prostitution cases were not well covered in the press, there is evidence that the moral suppositions of the law were repudiated by those accused. One illustration is the story of a convicted woman’s ongoing battle with the magistrate and the CAS to have her children returned to her. After a term in Mercer she tried to regain her children, despite the opposition of the authorities, who saw her as a bad mother because of her prostitution charge. Her
rejection of their assessment and her determination to retrieve her family, even if it meant a public fight with the CAS, suggest that this woman did not see her own actions as immoral.

Women charged with prostitution also pointed to the hypocrisy of those charging them. In one case, “Amy,” a woman incarcerated in Mercer for keeping a bawdy house, tried to enlist the support of her recently released accomplice, to pay back the police. In letters obtained by the prison authorities, Amy tried to persuade her friend to go public with joint claims of police corruption and thus “put the chief out of a job.” You “know we received whisky” in the police station, she wrote, “and also more than that took place . . . we were fools.” She claimed one policeman in particular, promised early parole in exchange for a confession, a ruse that successfully aided their conviction. Whether her charges were true or attempts to garner revenge cannot be stated: her letter is characterized, however, by a strong sense that the authorities were the real criminals.

Women recognized only too well that their sexual morality was being scrutinized by the authorities — even if they did not sit in the defendant’s seat. In the late 1930s, when Myrtle L. brought a charge of common assault against a man for “throwing her down and kicking her” after an evening out, she was put on the defensive in court. She admitted that she had gone to a show with the accused, Joe, and afterwards to her brother’s house. A fight ensued, she testified, over who would take her home and she was assaulted by her date. Perhaps realizing that she might be suspected of enticing her date to the house, Myrtle made an effort to assert her own morality, denying that she had even kissed Joe, as “I am quite fussy about whom I kiss.” She then produced a story that incorporated themes from well-known white slave stories. Joe, she said, purposely gave her a funny cigarette in the movie that made her confused and dizzy. She claimed he had “doped” her, and that she was subsequently unable to account for her actions. Given her age, it is likely that Myrtle had heard some of the white slave scenarios of the 1910s and 1920s; her own account seemed to incorporate some of plot twists from these tales. Drawing upon such cultural codes may well have been unconscious on the part of women as they utilized well-known storytelling devices or metaphors to relay their own experiences. In the end, however, her tale of deception was rejected and the charge against Joe dropped.
Women also utilized themes of familial protection and duty in their court presentations. Both men and women cited responsibilities to other family members such as aging parents as evidence of good character, or as a rationale for suspended sentence, but women were more likely to point to their child care duties, for instance, to offer a reason for a lenient sentence. And in many respects, women were in a more vulnerable position than men: they were more likely to be faced with an unwanted pregnancy or child care crisis, including loss of custody. These were not fabricated tales: they reflected women’s own economic and social responsibilities.

At the same time, women might play to the court’s view of the family as a place of control, good behaviour, respect for authority, and hence rehabilitation. One woman may have tried to get out of her sentence for theft by assuring him that she was getting married soon; another tried to explain her clash with the law in the context of her abandonment by both her husband and her father. For young women, the acceptance of parental authority was a prudent strategy. In one case of teenage theft, a suspended sentence was granted when the girl agreed to “obey her parents,” pay back the small sum of money, and “place herself under the authority of the Salvation Army Police Matron.” Her sentence was more lenient than the teen vagrant who, after being charged with begging, refused to take a job the matron found for her. “I can find my own jobs,” she retorted defiantly. She was sent to the Reformatory.

This script of familial protection was still unpalatable to some women: for them, the family itself may have been the problem, not the solution. Parental control was not the lesser but the greater of evils for “Gertrude,” a teen who in 1940 ended up in jail after disobeying the magistrate’s orders “to stop smoking, staying out late and disregarding her parents’ rules.” One young woman even used a peculiar form of self-sentencing to remove herself from her family: she ran away to Toronto, and made up a very convincing, long story about being orphaned; her heroic father was supposedly killed at Vimy Ridge, while her mother died tragically afterwards. Once discovered, rather than go home, she turned herself in to the Catholic Reformatory for Girls in Toronto.

While both men and women might employ familial ideology in their presentations, there was no equal to women’s elastic utilization of the theme of motherhood. Motherhood was an unstable image that could
be used to secure compassion, but could also be turned against women. For those who did not measure up to the dominant norms of respectable mothering, the court might show little sympathy.  

That motherhood could be used in different ways both by the defendant and the court is well illustrated by two cases that came from the Badlands. May Hill was a well-known figure in Magistrate’s Court, for she had married into a notorious family in Dummer township, the heart of the Badlands, around which violent feuds (especially unneighbourly cattle poisoning) had occurred since the turn of the century. Men in the Hill family, including May’s husband, had also been charged with assaults against women. May had to stand up to her violent in-laws, raise eleven children, and in the face of her husband’s absences, support the family. To do the latter, she took over the Hill’s moonshine operation. Her business became infamous: in 1927, after one of her customers recklessly drank too many bottles and died, she faced a coroner’s inquest; after another RCMP investigation, her neighbours developed sudden amnesia on the witness stand, rather than risk testifying against a member of the Hill family.

In the thirties she continued to appear before the court and, far from being intimidated by the magistrate, May was actually quite defiant and mocking. During one 1933 court appearance, she tried out a number of stories out on the magistrate. First, she denied that the barrel found in her barn contained liquor: it was merely chicken mash, she claimed, full of feed, dishwater, and other unappetizing ingredients. When faced with a lab analysis she abandoned that course and admitted guilt, but her lawyer argued that she should be given a suspended sentence because of her mothering duties. While sympathetic to her child care problems before, Magistrate Langley had lost patience: “I have seen this woman before me for ten years, I am not about to let her go.” May, however, was not prepared to serve time in the county jail. When she returned for sentencing, she had concocted a scheme that drew upon her role as mother. She entered her youngest baby in the county fair’s beautiful baby contest, and when he won a prize, she brought him, and his newfound fame, along to court. “How can you put me in jail,” she asked the magistrate, when I will have to take this “beautiful, bouncing baby boy”— a prize winning baby at that — to county jail? May was unsuccessful in escaping a term
in jail, but her reputation (and perhaps her business) was, if anything, enhanced. She had used the pride of motherhood, framed in a context of humour and ‘pulling a fast one on the judge,’ that the newspapers, and probably the public, rather enjoyed.

Women charged with more serious crimes could not follow May’s example. In 1927, Mary Dwyer was charged with the manslaughter of her twelve-year-old stepchild, John. Her case reveals the severe suspicion of women who appeared unnatural mothers, as well as the determining effect of one’s social and economic status, exemplified here by residence in the Badlands, in shaping public and judicial perceptions of women charged with crimes. In the face of these odds, it was questionable whether any story Mary told could have satisfied the magistrate.

Although an autopsy showed meningitis as the cause of John’s death, his emaciated body and indications of physical abuse led to charges of manslaughter against Mary, and then later, against the boy’s natural father, George Dwyer. Initially, newspaper reports were more concerned with lauding George Dwyer’s honourable war record than investigating family abuse. On the other hand, the crown attorney and magistrate seemed determined to make Mary morally, if not legally responsible for the incident, even if she was not the boy’s legal guardian.

The magistrate heard testimony from doctors, neighbours, and extended and close family, and complicated charges and counter-charges of physical abuse came from both Mary and George’s kin. Mary, who initially appeared extremely composed in court — demeanour immediately deemed suspicious by newspaper reporters — related a tale of poverty and fear of her violent husband. She claimed she “did her best with the little food” they had, and that her own children were better fed because they were sent to her parents for food. Moreover, she lived in “daily fear” of her husband and was too frightened to disobey him when he forbade a doctor for the sick child.

The crown attorney was skeptical, if not mocking, and the press too was initially doubtful. Evidence of the father’s violent domination of family seemed at first less palatable than the image of the evil stepmother who favoured her own children and starved her husband’s. Only after collaborative testimony was her tale of abuse given more credibility. Residence in the Badlands also condemned her. The press resurrected
the most lurid sections of the Badlands report, and a local doctor sug-
gested it was time prominent citizens led a “clean-up” of this “plague
infested” area, conjuring up images of a morality posse heading out
into the sunset.

After the charges were reduced to neglect, and the mother related her
story to a jury, she was found not guilty. The father was found guilty of
neglect by a judge, but given a suspended sentence. County Judge Huycke
noted that the father’s “valiant war record” entitled him to respect, and
that he undoubtedly loved his children; nor could he support them if
he went to jail. He commented that he liked the father’s story “with re-
spect to his wife very little,” but the mothers “story with respect to her
husband even less.” Nonetheless, he suggested the family “reunite” and
begin anew. While Mary’s husband was offered public respect for his
status as an honoured military man, Mary was ultimately offered little
more than pity in the public courtroom. Her tale of poverty, initially
suspect because of her residence in the Badlands, was later accepted;
hers maternal morality and respectability, however, remained dubious
to the legal authorities.

Conclusion

More than one perspective may be necessary to analyze women’s crimi-
nality in this period. Quantitative sources serve as a stark reminder that
certain economic and social conditions overdetermined women’s chances
of arrest; women’s economic dependency and their lack of social power
accounted, at least in part, for their conflicts with the law. Women’s
alienation as unhappy members or outcasts from the family, their ad-
diction, homelessness, and other factors creating social marginalization
also shaped their likelihood of arrest or their decision to engage in the
risk of crime. As Pat Carlen argues for women today, “they have chosen
crime, but under conditions not of their own choosing.”

Quantitative sources also suggest the importance of changing polic-
ing concerns: the increasing incarceration of women during the World
War II for venereal disease and the changing seriousness of alcohol of-
fences were two examples noted here. Police preoccupation with crimes
protecting property and regulating female sexuality, through vagrancy
and prostitution arrests, also indicate that the laws most stringently enforced served to mediate and control social relations already premised on social inequality and gender hierarchy. Thus, while the definition of women’s disorderly behaviour and how to reform it may have altered over time, the class and patriarchal power relations underlying the operation of the law remained a consistent theme.

In court, women faced a powerful body of knowledge about their lawbreaking that was produced, circulated, and justified though the letter of the law, the processes and rituals of the court, and the dominant discourses about how and why criminality occurred. Shaped by the social distance separating the experts and the defendants, this knowledge came to exert tremendous power by “disqualifying other interpretations” and claiming its roots in moral principles, justice, and eventually science. The experts, who both objectified and truly wished to help the women before them, offered an explanation for women’s predicament incorporating a language of structural causes and environmental cures, but also a more pessimistic rhetoric of immorality and inevitability. Both these discourses existed in the interwar period, though dark metaphors of disease and degeneracy sometimes dominated.

By the end of the 1940s, there were changes, not only in the theatre of the courtroom, but in the knowledge circulated about women lawbreakers. Increasing use of social work and medical assessments, including psychiatric ones, was evident, and a stronger language of environmental causes outpaced a rhetoric of immorality, but new ways of understanding female lawbreakers also became methods of pathologizing them. Furthermore, women’s economic and social vulnerability still framed their likelihood of arrest, and women in trouble with the law were still assessed according to their placement on the purity/promiscuity continuum, their demeanour, and their willingness to accept appropriate domestic roles. At the end of the 1950s, women admitted to Mercer were scrutinized on their tidy hair, willingness to wash dishes, and sexual morality.

Conceptions of women’s moral, then later personality ‘failure’ were grounded in existing power structures and in a complex externalization of crime, which obscured its roots in the existing social and gender hierarchy. The understandings of crime conveyed by these experts were not
one of many discourses, any one of which could have been chosen: cer-
tain discourses came to dominate precisely because they reflected class
and patriarchal power, justifying the existing social order and patholo-
gizing the experiences of the marginalized. The moral lectures of the
magistrate were an ideological articulation of those power relationships
and they assumed hegemony for precisely that reason.¹¹⁸

How were women to defend themselves? Accounts of their crimes
are conveyed to us through distorting mirrors of expert commentary,
or newspapers, which made them more melodramatic, entertaining, or
stereotypical. Yet women may have utilized these same conventions to
effectively tell their stories. The tales they told were justifications, inter-
pretations, strategies, and for a few women, small rebellions against the
court. Simply by explaining their crimes, they were sometimes contra-
dicting the knowledge of experts and society about their lives. Placing
their thefts in the context of want and poverty contradicted the claim
that it was greed or weakness of character that led to property crime;
rejection of the immorality associated with prostitution was an affront
to dominant notions of femininity. Rebellion, for other women, involved
rejection of parental authority and the healing powers of the family. For
a few, silence may have been a protest shaped by their awareness that
their own lives and values had been a priori condemned. Even May Hill’s
humour, though playing to the court, also made fun of it.

Yet for most women, staying out of jail, not challenging the court, was
probably their primary goal, and to do this, they had to translate their
crimes into images that validated “their status as moral beings.”¹¹⁹ As
Patricia Spacks points out, “the stories we tell about our lives are shaped in
part from the suppositions of stories we are supposed to tell.”¹²⁰ This is not
to dismiss women’s stories as contrived fiction; rather, they encapsulated
women’s reactions to their difficult material and social circumstances,
but were shaped by dominant cultural motifs and astute perceptions
of the posture designed to release them from the court’s clutches, in
the same way that the women described by Natalie Zemon Davis care-
fully shaped their pardon tales to obtain the king’s mercy. Women’s sto-
rries reflected their own lack of power, but also their attempts to utilize
elements of restrictive gender ideology to secure their freedom. That
so many inventive tactics and rebellious justifications could be located
within the court of a small town speaks to the agency of women often portrayed as victimized and controlled. These women may have sensed the paradoxes of paternalism in a patriarchal society. It is revealing that mercy and humour, rather than justice, were invoked as they faced the magistrate. Did they know, only too well, that the justice of courts was a far cry from social justice?

Notes

1 Peterborough Examiner (hereafter Examiner), 30 Dec. 1929.
2 Ibid.
3 When I know a lawyer is involved, I always note this.

6 After the 1874 Speedy Trials Act, magistrates could try summarily, with the consent of the defendant, offences previously tried at the Quarter Sessions (a higher court). For 90 percent figure, see Dorothy Chunn, “Maternal Feminism, Legal Professionalism and Political Pragmatism: The Rise and Fall of Margaret Patterson, 1922–34,” in Canadian Perspectives on Law and Society, ed. Wesley Pue and Barry Wright (Ottawa, 1988), 97. See also Margaret Banks, “The Evolution of the Ontario Court System, 1788–1981,” in Essays in the History of Canadian Law, vol. 2, ed. David H. Flaherty (Toronto, 1983).


8 The statistics for this section were drawn from an analysis of 616 arrests from 1920 to 1960. For most cumulative calculations I have used statistics from three decades, 1920–50, because the data from the 1950s is shaped by new variables (including the operation of a family court) and altered record taking, particularly for vagrancy/prostitution arrests. I have used numbers from all four decades only where noted.


10 Domestics were a far greater proportion of the arrests compared to the numbers of women over fifteen, the numbers of women wage earners, or even the number of women in personal services noted in the censuses of 1921, 1931, or 1941. To use only one example: in the 1930s domestics were 49 percent of arrests, while female servants were 10 percent of the female workforce (Canada, Seventh Census of 1931, vol. 7). These numbers may be augmented by the fact that some unemployed women listed themselves as domestics.

11 This is an estimate drawn from a five-year count of men’s and women’s charges in the Registers, as well as data from Ontario, Legislative Assembly, Report of the Inspector of Prisons, later Report of Prisons and Reformatories, later Report of the Dept. of Reform Institutions.
In the 1920s, these categories comprised 77 percent of arrests, in the 1930s, 66 percent, and in the 1940s, 65 percent.

See Revised Statutes of Canada, 1906, c. 146, s. 238, for the full definition. I have differentiated between those arrested as prostitutes under the vagrancy act (streetwalking) and other vagrants. When I refer to morals charges, I have combined streetwalking charges with those laid under the bawdy and disorderly house sections of the Criminal Code.


On the latter, see Carol Smart, Feminism and the Power of the Law (London, 1989).

See the assault case involving a bootlegger in the Examiner, 8 June 1955.

Charges for intoxication went from a mere 2 percent of charges in the 1920s to almost 30 percent of all charges in the 1950s, only a few of which were linked to drinking and driving.

Arrests go up from 32 in the first five years of the decade to 81 in 1925–29; arrests do not reach this level again until the 1940s, and there is no apparent change in policing at this time. Crime in times of prosperity has been attributed to rising material expectations and more risk taking. See T. Thorner and N. Watson, “Patterns of Prairie Crime, 1875–1939,” in Crime and Criminal Justice in Europe and Canada, ed. Knafla.

County Court Judge Huycke’s comments, noted later in this article, assumed that crime was intensifying during the Depression. Similarly, a Grand Jury’s report on the Mercer Reformatory assumed economic decay was translated into moral decay. See Archives of Ontario (AO), Vanier/Mercer Records, RG 20, vol. 35, Grand Jury Reports, 1934.

In the 1920s teens were 29 percent of arrests; women in their twenties 39 percent of arrests; in the 1930s teens were 41 percent and women in their twenties 28 percent; in the 1940s teens were 29 percent and women in their twenties 40 percent.

It is not possible to tell how many women arrested had children, as only marital status is given. It is possible that women with familial responsibilities were protected from arrest as the authorities also had to face the problem of who would care for their children. Still, married women do not receive a disproportionate number of discharges, nor do they have a substantially lower conviction rate, and they are only slightly more likely to pay fines and avoid a jail sentence than single women.
Over three decades, 78 percent of those arrested for streetwalking and 87 percent of those arrested under the bawdy house/disorderly house clauses were convicted, and 75 percent of the teens who were charged with prostitution spent some time in jail, compared to 45 percent for theft, or 40 percent for vagrancy.


In the 1930s these women comprised a fairly high 20 percent of the arrests for prostitution offenses. This may be related to the socio-economic background of these sects, or even to the possibility that they claimed that some ‘rescued’ women subsequently had relapses.

Weaver, “Crime, Public Order and Repression.”

Strain, Attorney General’s Papers, RG 4-32, file 509, Judge to Attorney General’s Staff, 30 Nov. 1926.

Arrests for violent crimes against women by men are slightly higher in the county, compared to the city, in the 1920s.


Examiner, 16 Nov. 1926.


While most bawdy houses operated in an area near the downtown core, there is a decline in the number of bawdy house arrests by the 1930s and 1940s.


Of three-, four-, and five-time offenders, the majority of arrests were for vagrancy and liquor consumption (58 percent and 16 percent, respectively). For five-time offenders, seven of nine women had no arrests for prostitution on their records, which were predominantly liquor and vagrancy arrests.

Philp came from Colbourne but practised in Peterborough before becoming a magistrate. He was active in the local Historical Society, the CAS, the Masonic
Lodge, and the United Church. See Examiner, 27 March 1971. The nearby magistrate from Lindsay, E.A. Gee, also occasionally sat in Peterborough.

35 Personal information from Langley’s descendants.


38 For example, after one square dance a woman was fined $25 for assault after a clumsy husband caused a fight by trampling on another woman’s feet: Examiner, 24 Oct. 1945.

39 AO, Andrew Mercer Reformatory Records (Mercer), Case File 9291.

40 Examiner, 10 April 1926. In 1927, the police matron claimed that Newall saw about 500 juveniles informally that year, while she saw 150: Examiner, 20 May 1927.

41 Examiner, 10 April 1926.


43 Even in the interwar period, reporting was changing: the local paper claimed it had decided not to use the names of those involved in domestic disputes, though the reporter sometimes couldn’t resist, as in one case involving Italians, where ethnic stereotypes were resorted to.

44 My description of the court is based on a reading of the Examiner, but it is heavily indebted to Pat Carlen’s ideas in Magistrates’ Justice (London, 1976).

45 Carlen, Magistrates’ Justice, 23, 100.

47 AO, Mercer, Case File 10154.
48 Examiner, 20 May 1927.
49 Peterborough CAS Records (hereafter CAS), Board Minutes, 14 Feb. 1922.
50 Ibid., 21 Feb. 1928.
51 Ibid., 28 April 1949.
52 Smart, Feminism and the Power of the Law, 10.
54 CAS, Board Minutes, 25 April 1940.
55 See the Knox suicide-murder (Examiner, 19 Feb. 1928). It was deemed unlikely that a middle-class, model member of society had killed a woman and then himself. Metaphors of degeneracy were not employed in cases like the CAS orphanage head dismissed for “mistreatment” of the children (Examiner, 22 Feb. 1928). On the under-policing of middle-class crime, see D. Owen Carrigan, Crime and Punishment: A History (Toronto, 1991), or Pat Carlen, Women, Crime and Poverty (Philadelphia, 1987).
56 Examiner, 19 Sept. 1944; emphasis mine.
57 Examiner, 13 Dec. 1933. Few Americans were ever arrested in Peterborough.
59 Ibid.
62 Admittedly, domestic violence in the Badlands was not merely an invented problem. The question is a complex one and will be discussed in a subsequent article. See also Karen Dubinsky, “Sex and the Single Industry Community: The Social and Moral Reputation of Rural and Northern Ontario,” paper presented at the Canadian Historical Association conference, Kingston, 1991, 32.
63 AO, Mercer, Case File 7628.
64 Examiner, 7 July 1931 and 2 Oct. 1931.
65 Examiner, 26 Sept. 1930.

‘Pardon Tales’ from Magistrate’s Court
Once they were incarcerated, training for domesticity was seen as an important part of women’s ‘rehabilitation’ — in contrast to the emphasis on the reform of boys through work, order, and military discipline. See Paul Bennett, “Taming ‘Bad Boys’ of the Dangerous Class: Child Rescue and Restraint at the Victoria Industrial School, 1887–1935,” *Social History/Histoire sociale* 41 (May 1988): 71–96.

Mary Odem, “Single Mothers, Delinquent Daughters and the Juvenile Court in Early 20th Century Los Angeles,” *Journal of Social History* 25, no. 1 (1991): 27–43. In Odem’s study, parents were primarily motivated by need for their daughters’ wages. In this case, parents appear especially concerned with control of their daughter’s sexuality. Women’s economic contribution to the household was the concern of some families, who wrote asking/demanding women’s release from prison so they could return to help support the family.


82 AO, Mercer, Case File 6323.


84 Examiner, 15 July 1934.

85 Examiner, 30 April 1936.

86 Examiner, 21 Nov. 1933.

87 Examiner, 11 Sept. 1935. At least 50 percent of those arrested for vagrancy were discharged with no sentence.

88 Examiner, 3 Feb. 1956.

89 Examiner, 6 May 1929.

90 Stealing small items from one’s employer was quite common. In the 1930s, 50 percent of all theft charges were levelled against domestics. The consequences could be severe: only 25 percent got off, and 75 percent were convicted.

91 AO, Mercer, Case File 7830.

92 Examiner, 27 Nov. 1942.

93 Examiner, 13 Nov. 1944.


95 Examiner, 28 Sept. 1949.

96 AO, Mercer, Case File 10786.

97 Examiner, 5 Jan. 1943.


99 AO, Mercer, Case File 5383. Carolyn Strange also argues that some younger women were more likely to respond to the superintendent’s intense program of character alteration.

100 AO, Mercer, Case File 5383.

101 Examiner, 2 May 1938.

102 In Justice for Women? Mary Eaton argues that familial ideology in pleas of mitigation is still used differently by men and women, with the court’s response shaped by women’s adherence to conventional family roles.

103 Examiner, 24 Oct. 1940.

Judith Allen, *Sex and Secrets: Crimes Involving Australian Women Since 1880* (Sydney, 1990), discusses the use of ‘the honourable military man’ defence plea in the interwar period. It was often used in this court as well.

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One, for example, sarcastically criticized an inmate: “hair resembled a bird’s nest, in fact a crow’s nest.”