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FELONY PUNISHMENTS: A FACTORIAL SURVEY OF PERCEIVED JUSTICE IN CRIMINAL SENTENCING

JOANN L. MILLER, PETER H. ROSSI,
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I. INTRODUCTION

The legally *justified* felony punishment in the contemporary United States supposedly reflects the harm principle — i.e., a penal sanction is justified when it prevents harm to individuals in the society.¹ The *just* or *fair* felony punishment supposedly reflects the severity of the offense, indicated in part by the injury, physical or financial, suffered by both the crime victim and the general population.² The just punishment is a social response to a criminal act, devised to prevent some unknown types and number of potential or future criminal acts.³

Law makers and policy makers strive to formulate sentencing procedures and felony punishments that are effective and responsive to the community's plea for just punishments. Therefore, because public opinion about criminal punishments is politically consequential, it warrants systematic study. In this work we ask: In addition to the seriousness of the crime, what are the factors that influence judgments about felony sentencing?

This research was designed to measure perceptions of appropriate punishments for offenders convicted of various crimes com-

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¹ Fineberg, *The Paradox of Blackmail*, 1 *RATIO JURIS*, 83 (1988).

² G. NEWMAN, *THE PUNISHMENT RESPONSE* 189-221 (1985).

³ A. VON HIRSCH, *PAST OF FUTURE CRIMES: DESERVEDNESS AND DANGEROUSNESS IN THE SENTENCING OF CRIMINALS* 104 (1987).

mitted under differing circumstances. We examine empirically how offense characteristics, offender characteristics, victim characteristics, and survey respondent characteristics influence judgments of felony punishments.

In the following section we present the socio-legal perspective used to frame our research. In section III we summarize the research design and research methods used for the study. In section IV we present empirical findings. In the final section we discuss some of the felony sentencing implications that can be inferred from the research.

II. A SOCIO-LEGAL PERSPECTIVE

This study is guided by the socio-legal notion that "law cannot be understood without regard for the realities of social life."⁴ We contend that to explain or predict a legal phenomenon sufficiently, the social context surrounding that phenomenon must be examined. We subscribe to Black's definitions of the law and criminal law. He states that *law* is governmental social control.⁵ *Criminal law* specifically is the style of law that "prohibits certain conduct, and it enforces its prohibition with punishment. In the case of violation, the group as a whole takes the initiative against an alleged offender, the question being . . . guilt or innocence."⁶

Criminal punishments vary quantitatively, ranging from one day in jail to life in prison. Criminal punishments also vary qualitatively, taking such diverse forms as the prison term, the probation term, and the monetary fine.

In this work we examine survey respondents' recorded judgments of criminal punishments. Generally, we expect to find these judgments reflect dimensions of social life that affect or characterize respondents, criminal perpetrators, criminal acts, and crime victims. Specifically, we expect to find that the respective occupational statuses of the offender and victim, the relationship between the offender and victim, and respondent's race, gender, and educational attainment are all related to personal judgments of felony punishments. Further we expect to find that survey respondents think corporate offenders deserve harsher criminal punishments than do individual offenders.

⁴ S. VAGO, *LAW AND SOCIETY* 39 (3rd ed.1991).

⁵ D. BLACK, *THE BEHAVIOR OF LAW* 2 (1976).

⁶ *Id.* at 4.

III. RESEARCH DESIGN AND METHODS

We designed this study to measure perceptions of appropriate prison sentences for convicted felons. We used a factorial survey approach⁷ to elicit from a general population sample, criminal justice samples, and student samples judgments, regarding the punishments appearing in more than 61,000 vignettes describing criminal acts, offenders, and the harm resulting from the crimes. The punishments describe the type of sanction — prison or probation — and the amount of felony punishment meted out for a variety of conviction offenses.

A. RESPONDENT SAMPLES

A modified area probability sample of Boston SMSA households was drawn to represent the non-institutionalized, adult general population. Blocks or groups of blocks were selected with probabilities proportionate to population size. Interviewers from the Center for Survey Research at the University of Massachusetts, Boston, enlisted the cooperation of either four or six individuals age eighteen or older from each block, maintaining equal gender quotas within the blocks. Interviews were conducted during the evening as well as the daytime hours, with no more than two interviews per block conducted with respondents over age sixty-five. This reduced any bias associated with respondent availability. The blocks designated for four respondents are in geographic areas with substantial minority populations. Interviewers completed at least three of the four interviews from these blocks with black individuals.

The adverse design effects of block-quota sampling are well documented.⁸ The advantages of this sampling design are also well known and reflected by this research. A total of 741 respondents were interviewed within a one month time frame at a cost far below that which would be required for a sampling strategy requiring call backs to complete interviews.

Column A of Table 1 profiles the Boston general population sample. Respondents, on average, are forty-one years old, largely Catholic, typically maintaining a \$26,000 annual net income for a 3.30 person household. Nearly one out of four respondents reports some form of criminal victimization experience within the past six

⁷ See MEASURING SOCIAL JUDGMENTS: THE FACTORIAL SURVEY APPROACH (P.H. Rossi & S. Nock eds. 1982) [hereinafter JUDGMENTS].

⁸ See Sudman, *Applied Sampling in HANDBOOK OF SURVEY RESEARCH* 183 (P.H. Rossi, J.D. Wright, & A.B. Anderson eds. 1984).

TABLE 1
STATISTICAL PROFILES OF RESPONDENT GROUPS

	(A)	(B)	(C)	(D)	(E)	(F)
	General Population	High School	Job Corps Recruits	Law Students	Police	Prisoners
	\bar{X} (s) ⁺	\bar{X} (s)	\bar{X} (s)	\bar{X} (s)	\bar{X} (s)	\bar{X} (s)
Age	41.11 (17.18)	16.78 (1.03)	18.95 (1.82)	25.73 (5.43)	29.87 (5.43)	31.65 (8.94)
Education in Years*	13.69 (2.70)	11.22 (.81)	10.39 (1.45)	18.00 (0.00)	14.37 (1.20)	11.21 (2.06)
Family Income in Thousands	25.98 (15.90)	18.51 (11.94)	16.23 (11.16)	20.07 (13.30)	27.74 (14.45)	11.14 (17.23)
Household Size	3.30 (1.63)	5.27 (2.36)	4.85 (3.15)	2.72 (2.04)	3.70 (1.90)	2.56 (2.02)
Proportion White	.91	.31	.41	.79	.85	.82
Proportion Male	.50	.47	.73	.65	.79	1.00
Proportion Catholic	.51	.50	.42	—	.72	—
Proportion Protestant	.28	.19	.20	—	.18	—
Proportion Victimized in Past Six Months	.23	.31	.24	—	.38	—
N**	741	226	135	165	128	35

* Educational attainment is coded in years, through the code for "high school diploma" (code 12); and, is coded 14 for some college, 16 for college degree, and 18 for professional or graduate school.

** Total number of respondents in a sample.

+ \bar{X} is the mean; (s) is the standard deviation.

months. All told, the general population respondent sample reflects the socio-demographic profile of the Boston SMSA.

For the purpose of representing young persons in the overall sample (especially those who are disproportionately likely to be crime victims), a sample of 226 Roxbury, Massachusetts, high school students and a sample of 135 Chicopee, Massachusetts, Job Corps recruits were approached. (The school-aged respondents as well as the criminal justice respondents discussed below are nonprobability samples and are especially valuable when treated as *supplements* to our general population sample.)

Three criminal justice samples — police officers, law students, and state prison inmates — were also enlisted. A criminal justice

program at Northeastern University enrolling police, students aspiring to a career in law enforcement, and security guards provided a sample of 128 respondents. A total of 165 law students from Indiana University, Bloomington, also participated in the survey. One-third of the law students surveyed were first-year students while the remaining two-thirds were third-year students. The final criminal justice sample surveyed consisted of thirty-five Norfolk (Massachusetts) State Prison inmates.⁹

As Table 1 shows, the surveyed law students tended to be young, white men. The police officer sample was slightly older than the law student sample but younger than the prison inmate sample. Compared to the high school students, the Job Corps recruits tended to be somewhat older although less educated. Members of the high school as well as the Job Corps samples tended to be black and Catholic.

The prison inmates who participated in the study were serving time for murder, rape, aggravated assault, robbery, burglary, or weapons' offenses. Thirty-three percent report they were unemployed at the time they committed the crime for which they were imprisoned. Fifty-one percent had not earned the high school diploma.¹⁰ This profile did not depart substantially from a nationwide profile of state prison inmates regarding background characteristics or conviction offense.¹¹

B. RESEARCH INSTRUMENTS

A factorial survey measurement technique was used to collect data from the Boston general population sample and the supplemental samples of student and criminal justice respondents. This measurement technique was developed by Rossi¹² for the purpose of observing how individuals and segments of populations integrate various dimensions of information when forming judgments about complex social phenomena.

The factorial survey technique combines the benefits of traditional survey research with those associated with the experimental

⁹ These inmates were participants in a nationwide survey on illegal weapons ownership and use. See J.D. WRIGHT & P.H. ROSSI, *ARMED AND CONSIDERED DANGEROUS: A SURVEY OF ARMED FELONS* (1986). The Massachusetts Commissioner of Corrections approved our administration of survey instruments to these individuals.

¹⁰ The nationwide state prison population is young (most are under age thirty-five), relatively uneducated (61.6% do not have the high school diploma), unemployed at the time the conviction offense was committed, and typically in prison for a violent offense.

¹¹ U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, *SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS* — 1989 at 590-91 (T.J. Flanagan & K. Maguire eds. 1990).

¹² See *JUDGMENTS*, *supra* note 7.

design. Factorial survey research instruments are administered to samples of respondents, selected by using conventional sampling designs, to represent the population(s) under investigation. The factorial objects judged by respondents are computer generated "vignettes" consisting of randomly assigned values for selected variables. The random assignment method for constructing vignettes generates *approximately asymptotically orthogonal* independent variables, making multiple regression techniques ideal for estimating the unbiased net effect of each variable appearing in the vignettes on the respondents' judgments.

To conduct this particular factorial survey, we used two types of survey instruments. First, we developed a traditional survey questionnaire to obtain personal background information and information about attitudes regarding crime and other social problems. Second, a booklet of "vignettes" describing various illegal incidents and the punishments given out for them was computer-generated for each individual survey respondent.

To create the vignettes for this study, we rotated twenty distinct dimensions of information (i.e., independent variables), describing the type and amount of punishment hypothetically meted out for several different crimes, committed by various offenders under differing circumstances. Some of the independent variables are nominal (offender and victim race and gender, for example), while other independent variables are ordinal or interval (such as amount of money stolen or number of prior felony convictions). Each vignette set is a unique random subset drawn from the universe of all possible combinations¹³ of the different levels of the twenty vignette dimensions. (See Appendix A for the vignette variables and their levels.)

The vignette booklets generated for the high school student sample and the first-year law student sample each contained twenty-five different vignettes. The booklets generated for the remaining respondents each contained fifty different vignettes. Regardless of the number of vignettes contained in a booklet, all respondents judged four different types of crimes; for the sake of convenience, these have been categorized as violent crimes, property crimes, public disorder crimes, and corporate crimes.

¹³ Some applications of the factorial survey design "restrict" possible combinations to what is plausible in the empirical world. Restrictions can result in correlated independent variables. In this application of the design we only restricted one variable, i.e., gender of rape offenders and victims. That is, all rape offenders are described in the vignettes as men and all rape victims are women. As a result, we can claim our independent variables, by design, are unrelated.

Figure 1 shows an example of a violent crime vignette and an example of a corporate crime vignette. After reading each vignette, the respondent places an "X" on its rating line to indicate the degree to which the criminal sanction meted out for the incident described in the vignette is too lenient, about right, or too harsh.

We coded the vignette ratings in the direction of harshness on a 125 point scale. The midpoint on the scale (62.5) reflects the perception that the type and the amount of punishment is "about right" for the incident. When respondents judge the sentence to be "too lenient" they are calling for more sanction than what appears in the vignette. When they think the sentence is "too harsh" they are calling for less sanction than what is given out to the offender.

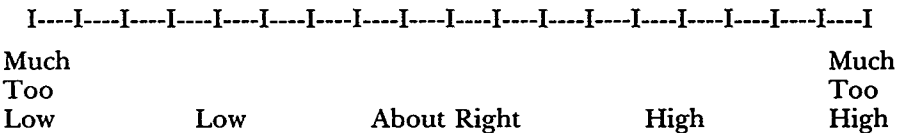
FIGURE 1
(A) VIOLENT CRIME VIGNETTE

Victor J., a white, employed sewing machine operator, was convicted of intentionally shooting his friend, Laura L., a housewife. The victim required two weeks hospitalization.

In the last five years, the offender has not been arrested or convicted. The offender claims to have been taking drugs at the time.

Victor J. was sentenced to 10 years in prison.

The sentence given was . . .



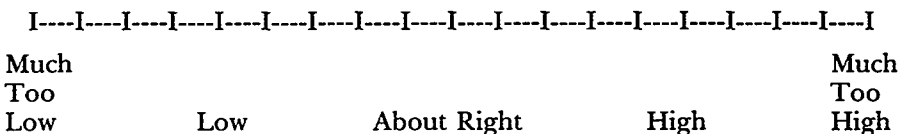
(B) CORPORATE CRIME VIGNETTE

A very large nationwide company was convicted of cheating on its federal income tax to avoid the payment of \$1,000.

Over the past five years, this company has been in court many times on charges like this. The company claims that such practices are the only way to survive in a very competitive industry.

The officials responsible for the crime were sentenced to five years in prison. The sentence was suspended with probation for the duration of the original sentence.

The sentence given was . . .



A total of 61,025 cases of information appear in the data files resulting from this application of the factorial survey design. Each vignette constitutes a separate case of information containing values for the vignette variables, the vignette rating, and values corresponding to the respondent information obtained from the background questionnaire.

As reported elsewhere,¹⁴ multiple regression was used to explain harshness ratings as a function of vignette variables and personal background characteristics. (Independent variables in the equation are treated appropriately as nominal, ordinal, or interval data in the multiple regression analyses.) The dependent variable, i.e., the harshness rating, is the respondent's perception of the type (prison versus probation) and the amount (ranging from "3 months in jail" to "more than 10 years in prison") of court imposed punishment meted out in response to various felony convictions. For the purposes of this research, we use mean vignette ratings¹⁵ and partial regression coefficients taken from the results of multiple regression analyses. The coefficients are estimates of the *net, unbiased* effects of social factors on felony punishment judgments, controlling for: crime seriousness, the injury or financial loss resulting from the offense, offender's prior criminal history, and the mitigating (or aggravating) circumstances surrounding the criminal act.

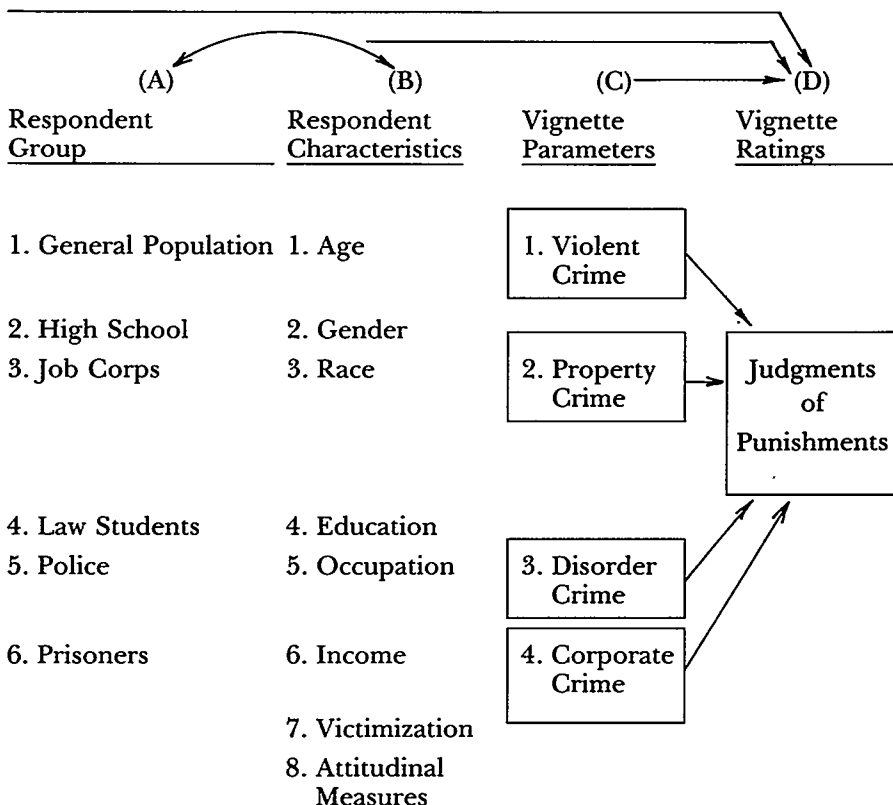
We present empirical findings that correspond to two different levels of analysis: the respondent characteristic, and the vignette level.¹⁶ Figure 2 shows how data at various levels of analysis are produced by the factorial survey method of measurement. Column A shows that six distinctive respondent groups participated in this particular study. Column B shows that respondent characteristics vary, and they are related somewhat to the respondent groups. Column C shows that vignette parameters describe four different types of criminal offenses. Factorial object parameters (Column C), by design, are unrelated to either respondent group (Column A) or respondent characteristics (Column B). Thus, controlling for vignette

¹⁴ See Rossi, Simpson, & Miller, *Beyond Crime Seriousness: Fitting the Punishment to the Crime*, 1 J. OF QUANTITATIVE CRIMINOLOGY 59-90 (1985).

¹⁵ In a factorial survey all the values appearing in the vignettes are assigned and combined randomly. This method results in an overall mean vignette rating (a harshness rating) that can be interpreted as a global judgment tendency, one reflecting respondents' considerations of all the dimensions of information rotated in the vignettes. Likewise the intercept resulting from an OLS analysis can also be interpreted as a rating tendency in that the intercept is the predicted value of the dependent variable when all the independent variables in the equation are set to zero.

¹⁶ Contact the paper's first author for respondent group level of analysis findings that are based on this research.

FIGURE 2
LEVELS OF ANALYSIS



C is unrelated to A or B.
 A to D = structural (group) level effects
 B to D = respondent level effects
 C to D = vignette level effects

parameters, it is possible to estimate the respondent group effects and the respondent characteristic effects on vignette ratings. Further, one can estimate, independently of the respondent group or characteristic level effects, the vignette parameter effects.

IV. FINDINGS

A. SOCIAL STATUS

Researchers have made numerous attempts to establish the relationship (or lack thereof) between some indicator of offender or victim social status and disparity or discrimination in the distribu-

tion of criminal sanctions.¹⁷ This inconclusive research literature persuaded us to explore the association between social status and vignette harshness judgments at two levels of analysis.

First, at the vignette level of analysis, we use occupational status, a proxy for social status in the contemporary United States society, to examine how the *relationship* between the victim's and the offender's status influences the vignette harshness judgments. Second, at the respondent group level of analysis, we examine differences in harshness ratings across the gender and race segments of the general population. Our premise is that the race and gender segments are differentially positioned in the contemporary U.S. society, and their felony punishment judgments correspond to their vertical ranks or positions.

1. *Vignette level of analysis*

The violent crime vignettes created for this study varied the occupation of both the offender and the victim. We used Duncan occupational prestige scores adapted for use with the current census to code numerically offender and victim occupational prestige. We classified the vignettes by whether the offender had either a *lower* or a *higher* social status than the victim of the crime.

¹⁷ See Amsterdam, *Race and the Death Penalty*, 7 CRIM. JUST. ETHICS 2, 84-86 (1988); D. BLACK, *SOCIOLOGICAL JUSTICE* 10 (1989); D.F. GREENBERG, *MATHEMATICAL CRIMINOLOGY* 60-64, 216-218 (1979); J.M. INVERARITY, P. LAUDERDALE, & B.C. FELD, *LAW AND SOCIETY: SOCIOLOGICAL PERSPECTIVES ON CRIMINAL LAW* 268-283 (1983); Miethe & Moore, *Socio-economic Disparities Under Determinate Sentencing Systems: A Comparison of Preguideline and Postguideline Practices in Minnesota*, 23 CRIMINOLOGY 337 (1985); Myers, *Economic Inequality and Discrimination in Sentencing*, 65 SOC. FORCES 746 (1987); H.E. PEPINSKY & P. JESILOW, *MYTHS THAT CAUSE CRIME*, 81-94 (2nd ed. 1984); M.A. PETERSON & H.B. BRAIKER WITH S.M. POLICH, *WHO COMMITS CRIMES? A SURVEY OF PRISON INMATES* 60-65 (1981); J. REIMAN, *THE RICH GET RICHER AND THE POOR GET PRISON* (3rd ed. 1990).

TABLE 2
SOCIAL STATUS OF OFFENDER AND VICTIM
VERSUS
HARSHNESS RATING OF CRIMINAL INCIDENTS WITH ALL
RESPONDENT SAMPLES POOLED

Vignette Level of Analysis

<u>Relative Status</u>	<u>Rape</u>	<u>Shoot</u>	<u>Stab</u>	<u>Beat-Up</u>
<u>Overall^a</u>	93.83	85.28	82.90	65.82
(s)	(29.38)	(29.49)	(30.92)	(35.25)
N	662	658	588	698
<u>Offender Lower^b</u>				
Mean Rating	92.39	84.56	83.07 ^c	69.27
(s)	(30.32)	(30.19)	(30.71)	(34.49)
N	379	320	306	357
<u>Offender Higher^d</u>				
Mean Rating	99.03	88.33	84.13	63.07
(s)	(24.64)	(27.09)	(30.77)	(35.46)
N	149	218	177	215
t ^e	2.04	1.49	.37	2.05

^a Includes vignettes showing no difference in offender and victim occupation and vignettes in which the offender and victim occupation did not appear.

^b Offender occupational prestige is less than victim occupational prestige.

^c The difference between the means in this category is not statistically significant at the 0.05 level.

^d Offender occupational prestige is greater than victim occupational prestige.

^e The t-value concerns the difference in means for offender "lower" and "higher" mean ratings.

Table 2 shows the mean vignette ratings characterizing all the respondent samples discussed above (i.e., general population, student, and criminal justice samples) for four specific violent crimes appearing in the vignettes. They are described in the vignettes as "rape," "intentional shooting," "intentional stabbing," and "beat-up with fists" (assault and battery).¹⁸ The top part of table 2 we show the overall mean vignette ratings. The middle part shows the mean ratings for vignettes describing offenders with *lower* occupational prestige than their victims. The bottom part shows the vignette ratings for incidents describing offenders with *higher* occupational status.

¹⁸ Additional incidents of violence appeared in the vignettes but they are not similar in nature to the offenses examined here. For example, "planting a bomb," "causing an accident while recklessly driving," and "threatening to injure" are qualitatively different than such behaviors traditionally defined as battery or rape. The ratings for these additional forms of violence are not reported in this paper.

An inspection of the mean vignette ratings shows that offenders with *higher* social status than their victims, controlling for the severity of the offense and the outcome of the crime, elicit *harsher* felony punishment judgments when a "rape," "shooting," or "stabbing" offense is committed.¹⁹ Offenders with a *lower* social status than their victims elicit *harsher* felony punishment judgments when their victims are injured from assault and battery offenses.

The vignettes generated for this application of the factorial survey varied the injury sustained by victims, for all acts of violence, ranging from "no physical injury" to "death." Whether the violent act is an assault or a stabbing, the variation in injury is identical. This design effect impels us to argue an *interaction* exists between the vignette offense and the *relationship* between offender and victim occupational prestige, i.e., social status. If the criminal offense is a rape or a shooting, and the offense is committed by a person enjoying a higher social status than the victim, respondents call for punishments that are more severe than those that would be meted out to lower status offenders committing similar offenses.

2. Respondent characteristic level of analysis

In Table 3 we show mean vignette ratings for the four types of crimes. The ratings are aggregated across the race and gender segments of the general population. We use race and gender designations to indicate vertical distances²⁰ among segments of society, arguably a structural indicator of social stratification. Men and whites, relative to women and blacks, maintain higher ranks in society as measured by income, educational attainment, or political power.²¹ At this respondent characteristic level of analysis, we see

¹⁹ The differences in mean ratings are statistically significant for all offenses except stabbing.

²⁰ See D. BLACK, *supra* note 5, at 16-21.

²¹ G.S. BECKER, THE ECONOMICS OF DISCRIMINATION, 101-134 (2nd ed. 1971); Bielby & Baron, *Men and Women at Work: Sex Segregation and Statistical Discrimination*, 91 AM. J. OF SOC. 759 (1986); Folbre, *The Pauperization of Motherhood: Patriarchy and Public Policy in the United States* in FAMILIES AND WORK 491-511 (N. Gerstel & H.E. Gross eds. 1987); Hill & Negry, *Deindustrialization and Racial Minorities in the Great Lakes Region, USA*, in THE SHAPING OF AMERICA: SOCIAL CONSEQUENCES OF THE CHANGING ECONOMY 168-178 (D.S. Eitzen & M.B. Zinn eds. 1989); Jones, *Black Women and Labor Force Participation: An Analysis of Sluggish Growth Rates*, in SLIPPING THROUGH THE CRACKS: THE STATUS OF BLACK WOMEN 11-32 (M.C. Simms & J.M. Malveaux eds. 1987); D.L. KIRP, M.G. YUDOF, & M.S. FRANKS, GENDER JUSTICE 104-172 (1986); Remy & Sawers, *Economic Stagnation and Discrimination*, in MY TROUBLES ARE GOING TO HAVE TROUBLE WITH ME: EVERYDAY TRIALS AND TRIUMPHS OF WOMEN WORKERS 95-112 (K.B. Sacks & D. Remy eds. 1984); H.R. ROGERS, JR., POOR WOMEN, POOR FAMILIES: THE ECONOMIC PLIGHT OF AMERICA'S FEMALE-HEADED HOUSEHOLDS (1986); G.E. SIMPSON & J.M. YINGER, RACIAL AND CULTURAL MINORITIES: AN ANALYSIS OF PREJUDICE AND DISCRIMINATION (1965); Willie, *The Inclining*

that women make harsher vignette judgments than men, regardless of crime type. We see also that when judging sanctions for property offenses, disorder offenses, and corporate offenses, blacks make harsher judgments than whites. Finally, we see that punishments given out for crimes of violence are judged most harshly by white women and least harshly by black women.²²

TABLE 3
SOCIAL STATUS:
RACE AND GENDER DIFFERENCES

Respondent Group Level of Analysis

<u>Respondent Type</u>	<u>Violence</u>	<u>Property</u>	<u>Disorder</u>	<u>Corporate Crime</u>
White Men				
Mean	75.63	59.63	46.60	66.00
(s)	(35.60)	(33.44)	(33.95)	(33.58)
N	3,298	6,998	5,082	3,472
White Women				
Mean	78.12	61.93	50.73	69.95
(s)	(33.55)	(32.22)	(32.45)	(31.65)
N	3,182	7,001	4,983	3,481
Black Men				
Mean	75.27*	61.68	51.91	71.89
(s)	(37.04)	(34.92)	(34.72)	(32.08)
N	685	1,472	1,045	699
Black Women				
Mean	74.83	68.28	55.73	75.11
(s)	(35.38)	(34.21)	(33.75)	(31.39)
N	527	1,089	793	528

* The difference between the black men's and the black women's mean rating is not statistically significant at the .05 level.

Significance of Race, 15 SOCIETY 56 (1978); W.J. WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987).

²² Although not reported here, we also examined the intercepts resulting from multiple regression analyses of the vignette ratings for the four distinctive types of crime scenarios. The multiple regression analysis explains variance in vignette ratings as a function of all of the dimensions of information rotated in the vignettes. Thus, the intercepts should be interpreted as the expected vignette ratings characterizing a segment of the general population when the values for all the dimensions rotated in this application of the factorial survey design are set to zero. Said differently, the intercepts, as well as the mean vignette ratings, should be interpreted as indicators of the judgment tendency representing the race and gender segments of the general population.

With the exception of a single intercept pertaining to black men judging crimes of

B. VICTIM-OFFENDER INTIMACY

Controlling for the nature of the offense and the harm resulting from the crime, the socio-legal perspective that guides our research leads us to expect that respondents would form vignette judgments that are the *most harsh* when a stranger offends a victim. We anticipate the *least harsh* judgments to be in response to vignettes describing punishments for a spouse harming a spouse in a criminal act of violence. These expectations, although problematic to those who seek justice in punishing the criminally liable, are derived from the research literature regarding criminal justice and family violence.²³

Table 4 shows the partial regression coefficients taken from a single equation model specified to account for variance in violent crime vignette ratings as a function of all dimensions of information rotated in the vignettes. We show unstandardized dummy variable coefficients; "No relationship between the victim and the offender" in the vignette is the omitted category in the block of dummy variables. One can interpret these coefficients as the net increase or decrease in harshness ratings estimated for the relationship type specified, controlling for the nature of the act, the harm resulting from the act, the mitigating or aggravating circumstances surrounding the act, and various characteristics describing crime victims and criminal offenders.

The coefficients displayed in Table 4 are from analyses of white male and white female harshness ratings. (The black analyses show no pattern that is relevant to the problem explored here.) For white respondents, injuring a spouse — compared to injuring an individual whose relationship to the offender is not specified — has an average net effect of decreasing harshness by six units on a 125 unit rating scale. White men call for *more punishment* as relational distance increases from "spouse" to "friend." White women call for

violence, the intercepts show that white judgments are more lenient than black judgments, and male judgments are more lenient than female judgments. The differences in intercepts are substantively large. The differences in mean vignette ratings across the races as well as across the genders are substantively small, but statistically significant.

²³ See Caputo, *Police Response to Domestic Violence*, 69 SOC. CASEWORK 81 (1988); Finesmith, *Police Response to Battered Women: A Critique and Proposals for Reform*, 1983 SETON HALL L. REV. 74 (1983); Frazier, Bock & Henretta, *Pretrial Release and Bail Decisions: The Effects of Legal, Community, and Personal Variables*, 18 CRIMINOLOGY 162 (1980); Herzberger & Channels, *Criminal-Justice Processing of Violent and Nonviolent Offenders: The Effects of Familial Relationship to the Victim*, in ABUSED AND BATTERED: SOCIAL AND LEGAL RESPONSES TO FAMILY VIOLENCE (D.D. Knudsen & J.L. Miller eds.) 63-78 (1991); Jaffe, Wolfe, Telford & Austin, *The Impact of Police Charges in Incidents of Wife Abuse*, 1 J. OF FAM. VIOLENCE 37 (1986); Stith, *Police Response to Domestic Violence: The Influence of Individual and Familial Factors*, 5 VIOLENCE & VICTIMS 37 (1990); Williams & Hawkins, *The Meaning of Arrest for Wife Assault*, 27 CRIMINOLOGY 163 (1989).

TABLE 4
VICTIM-OFFENDER INTIMACY

Vignette Level of Analysis

PARTIAL REGRESSION COEFFICIENTS TAKEN FROM
ANALYSIS OF CRIMES OF VIOLENCE VIGNETTES

Relation Between Offender & Victim	General Population White Male Regression Coefficients	General Population White Female Regression Coefficients
	b ⁺ (S.E.)	b (S.E.)
Spouse	-5.350*** (1.822)	-6.338*** (1.763)
Friend	-4.026* (1.606)	6.085*** (1.547)
Acquaintance	-2.964 (1.637)	-4.255** (1.575)
Stranger	-.768 (1.626)	1.043 (1.591)
Intercept	47.815*** (2.262)	56.172*** (2.245)
R ² Value from full equation	.468***	.456***
N	3,298	3,182

* p < 0.05

+ b is regression coefficient;
(S.E.) is standard error.

** p < 0.01

*** p < 0.001

more punishment when relational distance increases from "spouse" to "acquaintance." When the offender and the victim are "strangers" to each other, the vignette harshness ratings are not significantly different from the ratings for vignettes that do not describe any victim-offender relationship. We believe this indicates that respondents generally think "stranger" crimes deserve more punishment than crimes committed by offenders who are at least acquainted with their victims.

C. RESPONDENT'S EDUCATIONAL ATTAINMENT

We anticipate that a respondent's educational attainment, also a

structural indicator of social status in American society,²⁴ is associated with harshness in judgments of felony punishments. To probe that possibility, we array the mean vignette ratings by five traditional thresholds of educational attainment. Table 5 shows the results of this respondent characteristic level of analysis.²⁵

TABLE 5
EDUCATIONAL ATTAINMENT LEVELS
Respondent Group Level of Analysis
INDIVIDUALS' AVERAGE VIGNETTE HARSHNESS SCORES:
BOSTON GENERAL POPULATION SAMPLE

<u>Educational Attainment Level</u>	<u>Mean Vignette Rating</u>	<u>N</u>
Less than high school diploma	64.13	111
High school diploma	63.25	233
Some college	61.55	151
College degree	60.79	132
Graduate or Professional degree	56.93	112

We find that differences in mean harshness ratings for adjacent educational attainment levels are not statistically significant. However, respondents without a high school diploma make vignette judgments that are the most harsh, whereas those having graduate or professional degrees make judgments that are the least harsh. No educational group rating departs whatsoever from the overall pattern: as educational attainment increases, average vignette ratings decrease in harshness.²⁶

D. CORPORATE CRIME VICTIMS AND CORPORATE OFFENDERS

1. A victim perspective

Contemporary and conventional research on perceptions of corporate crime generally tries to establish the notion that corporate criminals are treated (or judged) more or less harshly than indi-

²⁴ See D. BLACK, *supra* note 17 at 35; S. BOWLES & H. GINTIS, *SCHOOLING IN CAPITALIST AMERICA: EDUCATIONAL REFORM AND THE CONTRADICTIONS OF ECONOMIC LIFE* 102-124 (1977); E. FREIDSON, *PROFESSIONAL POWERS: A STUDY OF THE INSTITUTIONALIZATION OF FORMAL KNOWLEDGE* 1-20 (1986); Ramirez & Meyer, *Comparative Education: Synthesis and Agenda*, in *THE STATE OF SOCIOLOGY: PROBLEMS AND PROSPECTS* 215-238 (Short, Jr., ed. 1981).

²⁵ This analysis is based on the ratings made by the general population respondent sample only.

²⁶ We used ANOVA to examine the association between education and vignette ratings overall ($F=7.58$, 4 d.f., ≤ 0.0001) and find at least provisional statistical confirmation for our claim regarding education and harshness ratings.

vidual offenders.²⁷ In this research we also examine whether respondents' perceptions of appropriate felony punishments are influenced by the crime victim being an organization, rather than an individual. We compare mean vignette ratings for two "trespassing" offenses as shown in Table 6. The vignettes generated for this application of the factorial survey design rotated the dollar loss amounts for all relevant crimes (see Appendix A, dimension E). Regardless of the particular crime descriptor appearing in the vignette, the range of dollar loss is identical. This design effect permits us to argue that it is the *corporate crime victim* that elicits an increase in harshness ratings.

TABLE 6
CORPORATE CRIME VICTIM

Vignette Level of Analysis

HARSHNESS RATINGS FOR TRESPASSING OFFENSES

<u>Criminal Act</u>	<u>\bar{X}</u>	<u>(s)</u>	<u>N</u>
Backyard Trespass	51.45	(32.10)	998
Business Trespass	54.62	(32.19)	1,071

t = 2.25, p ≤ 0.001

2. An offender perspective

Do *corporate offenders* enjoy an immunity from the law that some theorists²⁸ predict? The data presented in Table 7 indicate no empirical support for a corporate immunity hypothesis. Panel A shows that respondents rate the corporate tax evasion offense to warrant *more punishment* than the individual tax evasion offense. As remarked above, the range or amounts evaded are identical for the corporate and the individual offense, permitting us to conclude that the *corporate offender*, and not the amount of income tax evaded, explains our finding.

In Panel B of Table 7 we show the overall mean vignette rating for crimes committed by individuals that are financially motivated (called "property crimes"), and crimes committed by corporations (called "corporate crimes") that are financially motivated. We find that sample survey respondents call for more punishment against corporations that engage in illegal acts for profit than for individuals

²⁷ S.P. SHAPIRO, *WAYWARD CAPITALISTS* 161 (1984).

²⁸ See D. BLACK, *supra* note 17, at 42-44.

TABLE 7
CORPORATE CRIMINAL OFFENDER

Vignette Level of Analysis

**(A) AVERAGE HARSHNESS RATING FOR INCOME TAX EVASION
OFFENSES**

<u>Criminal Act</u>	<u>\bar{X}</u>	<u>(s)</u>	<u>N</u>
Individual Tax Evasion	41.23	(31.07)	1,002
Corporate Tax Evasion	53.16	(34.19)	1,010

t = 7.06, p < 0.001

**(B) OVERALL HARSHNESS FOR INDIVIDUAL PROPERTY AND
CORPORATE CRIMES**

<u>Criminal Act</u>	<u>\bar{X}</u>	<u>(s)</u>	<u>N</u>
Individual Crimes	60.01	(33.34)	23,222
Corporate Crimes	66.18	(32.92)	11,498

t = 16.38, p < 0.001

whose criminal acts are at least apparently motivated by financial gain. Based on these findings, we conclude that theoretical propositions concerning corporate immunity are *not tenable* when predicting or explaining how members of society *perceive* appropriate felony punishments. We argue that, from society's point of view, corporate offenders deserve more punishment than individual criminal offenders.

We recognize that the felony punishment deemed appropriate for offenders does not necessarily correspond to what is actually meted out by trial courts. Many researchers find, using qualitative as well as quantitative indicators, that corporations are (or have been, historically) the recipients of less severe criminal punishment than individual criminal offenders.²⁹ An examination of the punishments meted out to corporations may indeed provide support for a corporate immunity proposition. Respondents in this study, however, appear to reject the notion that corporations *should* enjoy immunity from the law.

²⁹ See Geis, *White-Collar and Corporate Crime*, in MAJOR FORMS OF CRIME 137-166 (R.F. Meier ed. 1984); Swigert and Farrell, *Corporate Criminal Liability: The Role of the Appellate Courts*, in LAW AND THE LEGAL PROCESS 73-90 (V.L. Swigert ed. 1982); Turk, *Political Crime*, in MAJOR FORMS OF CRIME (R.F. Meier ed.) 119-135 (1984).

V. SUMMARY AND DISCUSSION

The socio-legal orientation that framed this study, combined with the factorial survey research design, produced an uncommon understanding of felony punishment judgments. The study validates the notion that legalistic features of crime are not the sole determinants of perceived justice in criminal sentencing. It highlights the need to account for the social factors that prejudice opinions.

We believe this study shows that perceptions of justice in criminal sanctions reflect complex social judgements. The factorial survey design we used enabled us to examine the net and unbiased effects of numerous social factors on the judgment-making process. We contend that the factorial survey design is an important tool for understanding felony punishment judgments and other socio-legal phenomena.

Our investigation demonstrates that the *relationship* between the criminal perpetrator and the victim, and between the offender's social status and that of the victim's social status, influences attitudes of appropriate sanctions. Conventional research fails to examine the *relationship* between victim and offender characteristics — a social factor, which interacts with *legal* factors, such as statutorily defined crime severity — in effecting judgments of felony punishments.

We find that socio-demographic characteristics, i.e., race, gender and education, influence respondents' judgments about what constitutes suitable criminal sanctions. We conclude that survey respondents' judgments simultaneously reflect their own social structural positions and the social structural positions of perpetrators and victims of criminal incidents.

We also find that the respondents call for an increase in punishment severity when either the crime victim, or the criminal offender is a corporation, and not an individual. We believe events, such as criminal political misconduct and corporate misconduct that have headlined the U.S. news over the past decade may explain this finding. The moral indignation expressed toward the corporate offender intimates that organizations engaging in criminal conduct, according to survey respondents representing the general population and several elements the criminal justice system, deserve felony punishments that are *more severe* than those given out to individual offenders.

We quite clearly see that thoughts of justice are filtered through the social context in which criminal behavior occurs. Our research implies that perceptions of justice, inferred from evaluations of felony sanctions, reflect discretionary judgments and considerations of

structural aspects of society. Perceptions of justice parallel Roscoe Pound's classic portrait regarding the actual administration of justice:

[I]n no legal system, however minute and detailed its body of rules, is justice administered wholly by rule and without any recourse to the will of the judge and his personal sense of what should be done to achieve a just result in the case before him. Both elements are to be found in all administration of justice.³⁰

We invite legal and sociological researchers to bring the *socio-legal* perspective — with appropriate research design — to bear on future inquiries of justice perceptions.

³⁰ R. POUND, JURISPRUDENCE 355 (1959).

APPENDIX A
VIGNETTE DIMENSIONS

(A) Crime

- A = aggregate (corporate) offender
 I = injury crime (violence)
 L = financial loss crime
 P = person (individual) crime
 R = offender-victim relationship specified
- P L 1 Snatching a handbag on the street, stealing
 P L 2 Threatening someone with a weapon and demanding
 P L 3 Breaking into a home and stealing property worth
 P L 4 Breaking into a home carrying a gun and stealing
 P L 5 Breaking into a government building and stealing
 P L 6 Breaking into a neighborhood store and stealing
 P L 7 Breaking into a department store and stealing
 P L 8 Intentionally setting fire to a building causing damages worth
 P L 9 Knowingly trespassing on the property of a business and stealing property worth
- P L 10 Trespass in backyard and steal property worth
 P L 11 Stealing from a locked car property worth
 P L 12 Using stolen credit card to charge purchases worth
 P L 13 Stealing merchandise from a department store amounting to
 P L 14 Cheating on federal income tax return to avoid the payment of
- P L 15 Robbing a bank with a gun and stealing
 P L 16 Passing worthless checks and stealing
 P L 17 Forging a fake name to a check and stealing
 P L 18 Stealing a car, causing damages amounting to
 P L 19 Stealing property from place of employment worth
 P L 20 Embezzling money amounting to
 P L 21 As a public official, taking bribes amounting to
- PI L 22 Using a gun to rob someone, stealing
 PI 23 Planting a bomb in a public building that explodes while someone is in the building
- PI 24 Causing an accident while recklessly driving
 PI R 25 Intentionally stabbing
 PI R 26 Forcibly raping
 PI R 27 Intentionally shooting
 PI R 28 Intentionally pushing or shoving
 PI R 29 Intentionally injuring
 PI R 30 Beating up with fists
- P R 31 Threatening to injure seriously
 P 32 Being drunk in a public place
 P 33 Loitering in a public place
 P 34 Repeated refusal to pay a number of parking fines
 P 35 Resisting lawful arrest
 P 36 Selling heroin
 P 37 Selling marijuana
 P 38 Carrying a firearm without a proper license

- P 39 Smoking marijuana
- P 40 Deliberately making a false arrest while on duty as a police officer
- P 41 Making an obscene phone call
- P 42 Driving a car while drunk
- P 43 Joining a prohibited demonstration
- P 44 Lying under oath during a court trial
- P 45 Stealing a car to resell it
- P 46 Using cocaine
- AI 47 Knowingly selling contaminated food to a customer
- A 48 Operating a store knowingly selling stolen property
- A 49 Deliberately mislabelling lower quality goods to sell at higher prices
- A 50 Conspiring with several companies to fix illegally the retail prices of their products
- A 51 Threatening to fire workers if they join a union
- A 52 Making and selling pharmaceutical products known to be harmful to users
- A 53 Selling cars known to be dangerously defective to buyers
- A 54 Overcharging on repairs to an appliance
- A 55 Refusing to make essential repairs to rentals
- A 56 Overcharging for credit in selling goods
- A L 57 Cheating on its federal income tax return avoiding the payment of

(B) Length of Prison Sentence

- 3 months in jail
- 6 months in jail
- 1 year in prison
- 2 years in prison
- 3 years in prison
- 5 years in prison
- 7 years in prison
- 10 years in prison
- More than 10 years in prison

(C) Suspended Sentence Given

- Sentence was suspended
- Sentence was suspended with probation for the duration of the original sentence

Blank text

(D) Injury

- No injury specified
- Victim was not injured
- Victim was hurt but did not require medical attention
- Victim required medical attention
- Victim required 2 weeks hospitalization
- Victim received permanent physical injury
- Victim died

(E) Dollar Amount for Theft Crimes

No amount specified

Under \$20

\$20

\$50

\$100

\$500

\$1,000

(F) Offender Name (sex)

None specified

Male names

Female names

(If Crime is rape, the offender name is restricted to a male name)

(G) Offender Age

Not applicable

18

20

22

24

25

32

40

Blank text

(H) Offender Race

Not applicable

White

Black

Hispanic

Blank text

(I) Offender Employment Status

Not applicable

Unemployed

Employed

Blank text

Houseperson

(J) Offender Occupation

Not applicable

Car washer

Construction laborer

Cook

Parking lot attendant

Store clerk

Assembly line worker

Car salesperson

Bus driver

Cleaning person

Restaurant worker

Telephone operator

Office clerk
Office manager
Business manager
Bookkeeper
Drill press operator
Sewing machine operator
Teacher
Business owner
Blank text

(K) Prior Record of Individual Offender

Not applicable
Not arrested or convicted
Arrested once but not convicted
Convicted once but not sent to prison
Convicted twice and sent to prison once
Convicted and sent to prison more than twice
Blank text

(L) Mitigating Circumstances for Individual Offender Crime

Not applicable
Taking drugs
Very drunk
Worried over money to support family
Very sorry for the crime
Committed the crime for the sake of the family
Currently seeking a counselor for help in solving personal problems
Offered to make up for the crime by paying damages
Blank text

(M) Offender - Victim Relationship

Not applicable
Spouse
Friend
Acquaintance
Stranger
Blank text

(N) Victim Name

Not applicable
Female name
Male name
(If Crime is rape, victim name is restricted to a female name)

(O) Victim Age

Same as Offender age (G)

(P) Victim Employment Status

Same as Offender employment status (I)

(Q) Victim Occupation

Same as Offender occupation (J)

(R) Size of Company

Not applicable
Very large nationwide
Large
Small
A company

(S) Prior Record for Corporate Crime

Not applicable
Has never been in court on charges like this
Many complaints, first time found guilty
Been in court many times on charges like this
Blank text

(T) Mitigating Circumstances for Corporate Crime

Not applicable
All competitors do the same
Such practices are the only way to survive
Trying to save jobs for workers
Would have gone bankrupt
Law violated was unconstitutional

APPENDIX B
GENDER BY RACE GROUP ANALYSIS
HARSHNESS RATINGS OF CRIMES OF VIOLENCE

	White Men b (S.E.)	White Women b (S.E.)	Black Men b (S.E.)	Black Women b (S.E.)
Crime seriousness	.045*** (.002)	.035*** (.002)	.036*** (.005)	.033*** (.005)
Log of Prison Sentence	-10.180*** (.346)	-9.709*** (.343)	-9.709*** (.906)	-11.117*** (.910)
Suspended Sentence (dummy)	14.442*** (1.365)	20.702*** (1.355)	6.478 (3.666)	11.825** (4.154)
Probation (dummy)	13.678*** (1.414)	15.955*** (1.354)	12.404*** (3.754)	17.089*** (3.611)
Injury:				
Medical treatment	9.111*** (1.109)	10.156*** (1.067)	7.039** (2.957)	12.532*** (2.951)
Permanent injury	21.586*** (1.375)	22.335*** (1.340)	16.779*** (3.590)	20.472*** (3.557)
Victim died	36.845*** (1.385)	36.880*** (1.359)	28.717*** (3.964)	33.438*** (3.797)
Offender attributes:				
Age	.049 (.042)	.003 (.041)	.050 (.108)	-.050 (.113)
Black (dummy)	1.486 (1.054)	-.959 (1.105)	.171 (2.802)	-2.116 (2.905)
Female (dummy)	-1.573 (1.874)	-6.997*** (1.756)	-1.220 (5.581)	-16.196*** (4.335)
Houseperson (dummy)	-5.266 (3.371)	4.092 (3.287)	-10.008 (8.913)	2.602 (9.815)
Unemployed	-.110 (1.985)	1.389 (1.065)	1.806 (2.830)	-.514 (2.816)
Occupational status	-.010 (.019)	-.013 (.018)	.055 (.048)	-.032 (.048)
Criminal history:				
No arrests	-6.336*** (1.384)	-7.764*** (1.350)	-6.449 (3.789)	-9.609** (3.619)
One arrest	-.797 (1.375)	-.451 (1.332)	-4.106 (3.617)	-6.466 (3.630)
Prior prison	7.375*** (1.365)	5.982*** (1.318)	.924 (3.670)	8.320* (3.640)
Recidivist	9.667*** (1.356)	7.957*** (1.323)	6.836 (3.737)	4.344 (3.557)
Mitigating circumstances:				
Pay damages	-.712 (1.842)	-3.015 (1.751)	-4.038 (4.977)	-3.634 (4.694)
Financial worries	-4.464* (1.830)	-3.001 (1.799)	-2.052 (4.791)	-6.453 (4.654)
Counselor	-6.252*** (1.817)	-3.924* (1.804)	.044 (4.760)	-7.420 (4.948)
Intoxicated	-.583 (1.819)	-1.978 (1.778)	-.525 (4.716)	-2.508 (4.800)
Drugs	3.038 (1.794)	-.642 (1.823)	8.039 (5.031)	-7.966 (4.765)
Family sake	-.353 (1.805)	-1.473 (1.814)	-.088 (4.697)	-8.713 (4.748)

Victim attributes:				
Age	-.043	-.078*	-.075	.140
	(.041)	(.039)	(.110)	(.105)
Female (dummy)	3.180*	5.128***	.924	1.308
	(1.268)	(1.205)	(3.348)	(3.375)
Houseperson (dummy)	1.621	2.037	1.915	6.185
	(2.070)	(1.973)	(5.318)	(5.658)
Unemployed (dummy)	2.950	-.973	3.728	-2.233
	(1.570)	(1.424)	(3.875)	(4.747)
Occupational status	-.027	-.005	.027	-.045
	(.025)	(.025)	(.068)	(.064)
Victim-Offender Relationship:				
Spouse	-5.350***	-6.358***	-2.682	-.625
	(1.822)	(1.763)	(4.992)	(5.031)
Friend	-4.026*	-6.085***	-5.336	5.190
	(1.606)	(1.547)	(4.421)	(4.418)
Stranger	-.768	1.043	-.727	-2.086
	(1.626)	(1.591)	(4.357)	(4.189)
Intercept	47.815***	56.172***	54.629***	61.822***
	(2.262)	(2.245)	(5.966)	(6.113)
R ²	.468***	.456***	.323***	.458***
Mean	75.630	78.117	75.269	74.829
Standard Deviation	35.602	33.554	37.038	35.383
N	3,298	3,182	685	527

* p < .05,
 ** p < 0.01
 *** p < 0.001