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Sentencing decisions : the public view of the effects of consequences of crime, offender remorse and type of crime

Jodie S. Wright
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Sentencing Decisions: The Public View of the Effects of Consequences of Crime,
Offender Remorse and Type of Crime.

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USE OF THESIS

The Use of Thesis statement is not included in this version of the thesis.

Abstract

The Australian justice system is based in a conventional model of justice with the aim of uniformity in sentencing. It is important to ascertain public opinion on the relevance of different factors to be taken into account at sentencing as accurately as possible, in order to provide informed public opinion which may assist policy makers in making legislation or educating the public on these matters. The current study examined the impact of varying levels of victim harm (high or low) and offender remorse (high or low) for both person and property crimes on sentencing decisions made by both male ($n = 99$) and female ($n = 94$) members of the Western Australian public. The design was a $2 \times 2 \times 2 \times 2$ between subjects factorial, with dependent variables of length of sentence assigned (0-10 years jail), rated influence of four sentencing goals (retribution, rehabilitation, incapacitation and deterrence) on sentence choice, and responses to an open-ended question about the reasons for the sentence chosen. The main findings were that demonstrations of offender remorse and the level of harm caused to the victim appeared to be factors in public participants' sentencing. There was no difference in sentences assigned by male and female participants. Although the majority of participants believed they sentenced for rehabilitative reasons, retribution appeared to be the major factor in the sentences assigned, an outcome which reflects the focus of the Western Australian sentencing legislation. Implications arising from the results include the need for more public education in the areas of the functions of the courts, legal principles and theories, and options for victims of crime. Overall, the current study added to the body of research examining public opinions about the potential relevance of various victim and offender factors at the sentencing phase in the search for uniformity in sentencing.

Declaration

I certify that this thesis does not, to the best of my knowledge and belief:

- (i) incorporate without acknowledgement any material previously submitted for a degree or diploma in any institution of higher education;
- (ii) contain any material previously published or written by another person except where due reference is made in the text; or
- (iii) contain any defamatory material.

Jodie Sarah Wright

06.07.2001

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Sentencing Decisions: The Public View of the Effects of Consequences of Crime,
Offender Remorse and Type of Crime.

“Informed ... public opinion should be the ultimate determinant of sentencing policies and practice” (Green, 1996, p116). This statement by the Former Chief Justice of Tasmania reflects the basis of the conventional model of justice, which holds that criminal offences are seen as offences against the State and sentences are passed on behalf of the public or community (Ashworth, 1993). The Australian justice system is based in the conventional model of justice. This model aims for uniformity in sentencing, defined by the Australian Law Reform Commission (ALRC; 1988) as occurring when courts “impose similar punishment for *similar* offences committed by offenders in *similar* circumstances” (para 155; emphasis added). In effect, uniformity in sentencing is about defining more clearly how much weight ought to be given to each of the many factors taken into account when determining what makes one offence ‘similar’ to another (for example, the amount and extent of harm caused to the victim, or the level of intent of the offender), and what makes one offender’s circumstances ‘similar’ to another (such as the level of remorse the offender demonstrates, or the social history of the offender). These ideas will be further explored below. If achieved, uniformity in sentencing is said to inspire public confidence in the criminal justice system as well as achieve fairness among defendants (Ashworth, 1993).

The main issues germane to uniformity in sentencing examined in the current study were the perceived roles in sentencing decisions of the level of harm caused to the victim and the level of remorse demonstrated by the offender. These variables were examined in relation to both property and person crimes, due to the fact that previous research has highlighted qualitative differences in sentencing decisions between types of crimes (discussed further below). In addition, previous research has found differences in judgements about deserved punishment between male and female participants. These differences have been attributed to the accessing of different goals of sentencing when making a decision. The sex of the participant was included as a variable in the current study in order to explore these sex differences (see below for details). Some of the above variables and their interactions have been examined by previous researchers, and some have not. The variables and associated research will be fully explained throughout this paper.

Legislation has recently been tabled in many of the states of Australia to guide the sentencing process in response to concerns about the lack of uniformity in

sentencing (Hall, 1991; sentencing Act of 1995, in Western Australia (WA); crimes Act 1990 of the Australian Capital Territory (ACT); Crimes (Sentencing Procedure) Act 1999 (NSW); Criminal Law (Sentencing) Act 1988 of South Australia (SA); Criminal Offence Victims Act 1995 of Queensland (Qld); Penalties and Sentences Act 1992 (Old); Sentencing Act of New South Wales (NSW); Sentencing Act 1995 of the Northern Territory (NT); Sentencing Act 1997 of Tasmania (Tas); Sentencing Act 1991 (Vic)). Increasingly, the emphasis is being placed on the relative weighting to be given to each of the many factors to be taken into account at sentencing, such as the facts of the case, and aggravating and mitigating factors (see, for example, Barthomomew, 1996; Batros, 1993; Chappell, 1992; Hinton, 1995). These factors must also be examined within the framework of the goal or purpose of the sentence being passed (Ashworth, 1993; Hall, 1991). Research has been conducted in an attempt to try to identify which of the factors and goals are relevant or irrelevant to sentencing decisions by examining both public and judicial opinions, and archival data (for example, Erez & Roeger, 1995; Fox & Freiber, 1990; Walker, Collins & Wilson, 1998).

In Australia when a judge or magistrate sentences an offender, whether as a result of a guilty plea or a guilty verdict, a number of factors are taken into consideration. As the current study was conducted in Western Australia (WA), the legislation for WA requires some description. References to relevant legislation from other states of Australia can be found in parentheses throughout this dissertation. Western Australian legislation states that sentences must be in line with the seriousness of the offence, as determined by factors such as the statutory penalty for the offence (which may change to reflect public opinion), the circumstances of the offence, and aggravating and mitigating factors (Sentencing Act 1995 (WA), s 6; see also Crimes Act 1900 (ACT), s 429A; Penalties and Sentences Act 1992 (Qld), s 9; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Sentencing Act 1997 (Tas), s 9). If the court believes a factor increases the culpability of an offender, it is known as an aggravating factor (Sentencing Act 1995 (WA), s 7). Aggravating factors include both offender and victim variables, such as use of a weapon, premeditation, victim vulnerability or intent to injure (Erez & Roeger, 1995). If the court believes a factor decreases the culpability of an offender, it is known as a mitigating factor (Sentencing Act 1995 (WA), s 8). Mitigating factors include offender variables such as good character, good rehabilitation prospects, any circumstances requiring sympathy, or a high level of remorse (Erez & Roeger, 1995). Western Australia is the only state to include a specific definition of the

terms ‘aggravating factor’ and ‘mitigating factor’ in its legislation, although most legislation includes a list of matters to be taken into account at sentencing which includes both aggravating and mitigating circumstances (see Crimes Act 1900 (ACT), s 429A; Crimes (Sentencing Procedure) Act 1999 (NSW) ss 22, 23; Criminal Law (Sentencing) Act 1988 (SA) s 10; Penalties and Sentences Act 1992 (Qld), s 9; Sentencing Act 1991 (Vic); Sentencing Act 1995 (NT), s 5; Sentencing Act 1997 (Tas), ss 80-83). Weighing up of the aggravating and mitigating factors leads to a judgement of offender culpability or blameworthiness. ‘Culpability’ was defined by Fox and Freiberg (1990) as involving an “assessment of the offender’s awareness, motivation, and intention in relation to the crime as a measure of the extent to which the person should be held accountable” (p169). The main principle governing a sentence of imprisonment is that it should only be imposed if the court decides that the “seriousness of the offence is such that only imprisonment can be justified, or ... the protection of the community requires it” (Sentencing Act 1995 (WA), s 6). Other states have similar principles in their legislation (see for example, Crimes Act 1900 (ACT), s 429C; Crimes (Sentencing Procedure) Act 1999 (NSW), s 5; Criminal Law (Sentencing) Act 1988 (SA), s 11; Penalties and Sentences Act 1992 (Qld), s 9; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1997 (Tas), s 7).

Goals of sentencing

There are four main goals of sentencing: retribution, deterrence, incapacitation and rehabilitation (Bing, 1990; Gottfredson & Gottfredson, 1990; Sentencing Act 1991 of Victoria (Vic), s 5). These goals underlie all sentencing decisions made by the judiciary (Gottfredson & Gottfredson, 1990), and feature to a varying extent in the different sentencing legislation of each state of Australia (Crimes Act 1900 (ACT); Criminal Law (Sentencing) Act 1988 (SA); Criminal Offence Victims Act 1995 (Qld); Penalties and Sentences Act 1992 (Qld); Sentencing Act 1989 (NSW); Sentencing Act 1995 (NT); Sentencing Act 1997 (Tas); Sentencing Act 1991 (Vic); Sentencing Act 1995 (WA)).

The purpose of the goal of retribution is to punish the offender for his or her offence (Gottfredson & Gottfredson, 1990). The Collins English Dictionary and Thesaurus (1993) defines retribution as “the act of punishing or taking vengeance for wrongdoing, sin or injury” (p987). Central to this goal is the notion of “vengeance”, involving punishing or hurting the offender for their criminal actions. This goal is often linked to the “just deserts” or proportionality model of punishment, which holds that the

seriousness of the crime (partly determined by the consequences of the crime) should be the main determinant of the severity of the sentence imposed (Davis & Kemp, 1993; Hall, 1991).

The goal of deterrence can be satisfied in either a specific sense, with the aim of deterring that particular offender from offending again, or in a general sense, with the aim of deterring other potential offenders. The overall aim of the goal of general deterrence is to send a message to others about the consequences of committing crimes such as the one being punished (Gottfredson & Gottfredson, 1990). The purpose of incapacitation is to prevent the offender from reoffending for a period of time, by controlling his or her behaviour (for example, through imprisonment). Determining the length of a sentence on the basis of incapacitation requires a prediction of the future dangerousness of the offender, including the risk that the offender will reoffend. In theory, if a magistrate or judge chose to sentence an offender solely for the purpose of incapacitation, then an offender who is assessed to be at a high risk of reoffending when released will usually be assigned a longer sentence than if the offender is assessed as being a low risk (Bing, 1990). While an offender is imprisoned he is much less likely to be able to offend against the general community. However, no guidelines are given as to how to assess level of risk of future reoffence, and further, it is not clear how merely spending time in prison is supposed to prevent future offences. This function is addressed by the final goal, rehabilitation, which refers to sentencing the offender with the aim of providing some treatment, in order to reduce the risk of reoffending once released (Gottfredson & Gottfredson, 1990). All prison programs that address offending behaviour are part of the rehabilitative goal.

The choice of goal used in sentencing a particular offender depends on the offence committed and other circumstances of the case. In addition, more than one goal is often satisfied within one sentence (Bing, 1990; Gottfredson & Gottfredson, 1990). For example, a judge may sentence a person convicted of Assault Occasioning Bodily Harm to a period of time in prison, which may satisfy the goals of deterrence, retribution and incapacitation. It is often more difficult to fit the goal of rehabilitation into the actual sentence, as a sentence of imprisonment does not necessarily mean the offender will receive treatment. Whether or not this occurs depends on the availability of treatment programs in the prison system, and whether or not the offender is willing to attend these programs.

The ALRC (1988) reported that the main purpose of sentencing in Australia was to achieve “just deserts” or proportionality in sentencing. This meant that the severity of the sentence was mostly determined by the seriousness of the crime, and other goals of sentencing took on secondary importance (ALRC, 1988). Other goals of sentencing such as rehabilitation, deterrence or incapacitation are not specifically mentioned in the legislation of Western Australian or New South Wales (Crimes (Sentencing Procedure) Act 1999 (NSW); Sentencing Act 1989 (NSW); Sentencing Act 1995 (WA)), but are included in more detail by other states of Australia (Crimes Act 1900 (ACT), s 429; Criminal Law (Sentencing) Act 1988 (SA), s 10; Penalties and Sentences Act 1992 (Qld), s 9; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Sentencing Act 1997 (Tas), s 3). For example, Victorian sentencing legislation states that the purposes for which sentences may be imposed are:

- (a) to punish the offender to an extent and in a manner which is just in all of the circumstances; or
- (b) to deter the offender or other persons from committing offences of the same or a similar character; or
- (c) to establish conditions within which it is considered by the court that the rehabilitation of the offender may be facilitated; or
- (d) to manifest the denunciation by the court of the type of conduct in which the offender engaged; or
- (e) to protect the community from the offender; or
- (f) a combination of two or more of these purposes.

(Sentencing Act 1991 (Vic), s 5 (1)).

Legislation which specifically mentions more than one goal of sentencing allows members of the judiciary to use their discretion and give weight to more than one goal when sentencing. In contrast, the Western Australian legislation and that from New South Wales appears to focus the judiciary towards a more retributive just deserts model. One of the aims of the current study was to examine which of the four sentencing goals were afforded prominence by members of the Western Australian public, when making sentencing decisions. If members of the public highlight a role for goals other than retribution, or to the exclusion of retribution, then it may be useful to have these other goals reflected in the legislation that provides a framework through which decisions on sentencing are made.

The role of public opinion in sentencing

“Laws should ... ideally mirror the dominant attitude in the population” (Odegard, 1995, p540). This statement reflects the opinion of many writers such as Dahl (1986; as cited by Odegard, 1995) and Green (1996) who have asserted that as part of living in a democracy, citizens should be able to have some influence over decisions made by the government who is elected to represent them.

As previously mentioned, criminal offences in Australia are perceived as offences against the State and sentences are passed on behalf of the public or community (Ashworth, 1993). As such, part of the role of the judiciary is to represent the community and when sentencing, to act in the best interests of the citizens. The judiciary have a certain amount of independence and discretion when sentencing (South Australian Justice Administration Foundation Annual Oration). However, they also remain bound to current sentencing legislation, which is formed by policy makers whose positions rely on the election and re-election of their political party. As a consequence, these policy makers may be influenced by outside sources such as the current state of public opinion (Fox & Freiberg, 1990). However, when taking public opinion into account, policy makers have been criticised for relying on ill-informed or media-driven ideas of public opinion rather than the well informed, abiding sentiment that underlies community views (Ouimet & Coyle, 1991; Fox & Freiberg, 1990). Hence, public opinion on matters such as sentencing practices should be determined with as much accuracy and validity as possible, to guide policy makers, and ensure that the justice system does represent the people of the community.

Previous public opinion research has highlighted some of the difficulties involved with assessing informed public opinion (Fox & Freiberg, 1990; Green, 1996). Green (1996) stated that respondents should have available to them the facts of the case as if it were presented in court, not by the media. Respondents should be given information about the offender's personal circumstances, prior convictions, and the contents of any pre-sentence reports or submissions made in mitigation. In addition, Fox and Freiberg (1990) listed areas of weakness in public opinion research, including a need for specificity with respect to the types of cases and offenders that respondents are asked to judge, and more information about the offender. The weaknesses highlighted by Green and by Fox and Freiberg were the result of reviews of many studies, proclaiming to be determining public opinion on the basis of very brief descriptions of crimes (one sentence) and no information provided about the offenders, or victims.

These weaknesses will be addressed in the present study, in an attempt to provide a more informed public opinion of sentencing matters.

The overall aim of the present study was to provide information about the views of a well-informed sample of male and female members of the Western Australian public, on the role of victim harm and offender remorse in sentencing of both person and property crimes. As this paper continues and the relevant rationale for the study is provided, public opinion research about each area of sentencing will be discussed.

The role of the victim in sentencing

The role of the victim in Australia's criminal justice system has relatively recently become a focus of attention for policy makers. Prior to the mid 1980s, victims of crime were represented by the state, with the crown prosecutor representing the interests of all of society (Anderson, 1995; Erez, 1990; Raineri, 1995). This model of justice did not formally provide for the extent of harm to the victim to be taken into account. This is because harm to a particular victim was not seen to have anything to do with the wider "public-interest" involved (Erez, 1990), and because victims of crime had recourse to the civil courts to obtain restitution in the form of, for example, monetary damages. During criminal trials, the court perceived victims as witnesses only (Erez & Roeger, 1995; Wright, 1996). However, research conducted by researchers such as Rubel (1986) revealed that many victims perceived the trial to be "their case", and believed they were key parties in the process. This basic difference between the court's and the victims' perspectives led many victims to feel alienated and dissatisfied with the criminal justice system (Erez & Roeger, 1995).

In order to address victims' dissatisfaction with the criminal justice process, a move began in Australia to include victims of crime in the criminal justice process (Black, 1994; Erez, 1990). This move included the introduction of victim support services, and the introduction of provisions such as monetary compensation, keeping the victim informed of the progress of the case, restitution, mediation, and the inclusion of statements by the victim at the sentencing phase, known as victim impact statements (Black, 1994). Victim impact statements and other ways to include victims of crime in the judicial process feature to a varying extent in each state's sentencing legislation (Crimes Act 1900 (ACT), s 429AB; Crimes (Sentencing Procedure) Act 1999 (NSW), ss 26-30; Criminal Law (Sentencing) Act 1988 (SA), ss 7, 10; Criminal Offence Victims Act 1995 (Qld), ss 5, 14; Penalties and Sentences Act 1992 (Qld), s 14; Sentencing Act

1991 (Vic), ss 3, 95; Sentencing Act 1995 (NT), s 5; Sentencing Act 1995 (WA), s 24; Sentencing Act 1997 (Tas), ss 33, 64-68).

The main aim of a victim impact statement is to address the emotional, physical, mental and financial impact of the crime on the victim, to help the court determine a sentence for the offender through a judgement about the perceived seriousness of the offence (Erez & Roeger, 1995; Sentencing Act 1995 (WA), s 24). As discussed earlier, when sentencing using the principle of proportionality, the main determinant of the length of sentence is the seriousness of the crime (Davis & Kemp, 1993; Hall, 1991). In theory, the more serious the consequences of the crime on the victim, the more serious the offence will be seen to be, hence a more severe sentence may be imposed. The Sentencing Act 1995 (WA) defines the content of a victim impact statement more specifically as:

... a written or oral statement that (a) gives particulars of any injury, loss, or damage suffered by the victim as a direct result of the offence; and (b) describes the effects on the victim of the commission of the offence. (s 25 (1))

Section 25 also specifies that victims are not to directly mention in what way or for how long the offender should be sentenced, and that reports by anyone who has treated or helped the victim with the effects of the offence are allowed. In addition, the court can rule any part of a victim impact statement inadmissible (s 26). For the purposes of inclusion in court, “victim” is defined by section 13 as:

- (a) a person who, or body that, has suffered injury, loss or damage as a direct result of the offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender;
- (b) where the offence results in a death, any member of the immediate family of the deceased.

Victim impact statements are currently admissible in most Australian courts for criminal cases, whether they involve a guilty plea or a guilty verdict (Crimes Act 1900 (ACT), s 429AB; Crimes (Sentencing Procedure) Act 1999 (NSW), ss 26-30; Criminal Law (Sentencing) Act 1988 (SA), s 7; Criminal Offence Victims Act 1995 (Qld), s 14; Sentencing Act 1991 (Vic), ss 3, 95; Sentencing Act 1995 (NT), s 5; Sentencing Act 1995 (WA), s 26). However, in a trial situation victim impact statements may add very little new information, because the judge or magistrate may have already heard the

effects on the victim during the trial (Erez & Roeger, 1989; Hellerstein, 1989). As such, they are of most use in the situation where an offender pleads guilty (Miles, 1995).

Acceptance of the notion that the effects of a crime on a particular victim should play a role in determining a sentence has implications for the legal test of reasonable foreseeability. According to common law, this test holds that if the consequences of a crime could have reasonably been foreseen by an ordinary person, the consequences are not the result of an “accident” and the offender is held responsible for them [R v Van Den Bemd (1992; 1994); 70 A Crim R 489; 494]. Allowing victim input into criminal sentencing goes against common law by removing the test of reasonable foreseeability. It does this by inferring that criminal offenders must take their victims as they find them and suffer the consequences, regardless of whether the consequences could have been reasonably foreseen or not (Ashworth, 1993; Hinton, 1996). For example, consider the situation whereby an offender burgles a house belonging to a person he does not know. The victim is affected very dramatically by the offence, suffers a heart attack and dies. Imagine if the same offender decided to burgle a different house that night. The victim of the second situation changes her locks and continues to live much as she did prior to the crime being committed. In the situation where the relatives of the first victim submit a victim impact statement, the offender may theoretically be sentenced more severely than if the second victim submitted a victim impact statement, even though the offender may not have been able to reasonably foresee the impact of his actions. Although causing difficulties for criminal sentencing, this inference is in fact the basis of civil law, whereby victims of crime are able to sue an offender for damages according to the extent of the impact of the crime upon them (Ashworth, 1993).

In summary, when making sentencing decisions, the judiciary are required to master a complex balancing act of weighing up the interests of society with that of the particular victim, and to come to some mutually beneficial decision on how to sanction the offender. One of the general aims of the current study was to determine public opinions about the role that victim harm or consequences of the crime should play in sentencing offenders who plead guilty. Harm was defined with respect to physical, mental / emotional and financial impact of the crime on the victim, consistent with literature on victim impact statements (for example, Erez & Roeger, 1995). If scenarios involving a high level of harm result in significantly longer assigned sentences than those involving a low level of harm, it may indicate a public belief that the consequences of a crime and the impact of the crime on the victim(s) should play an

influential role in sentencing. This may have implications for the test of reasonable foreseeability.

The role of offender remorse in sentencing

When convicted offenders are sentenced in Australia, expressions of remorse by an offender are perceived as a mitigating factor (Erez & Roeger, 1995). This means that an expression of remorse is taken into account in the factors that reduce the culpability or blameworthiness of the offender, and may decrease the extent to which the offender is punished (Sentencing Act 1995 (WA), s 8; see also Crimes Act 1900 (ACT), s 429A; Crimes (Sentencing Procedure) Act 1999 (NSW), s 22; Criminal Law (Sentencing) Act 1988 (SA), s 10; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Penalties and Sentences Act 1992 (Qld), s 9). Remorse is defined by The Collins English Dictionary and Thesaurus (1993) as “a sense of deep regret and guilt for some misdeed” (p974). Of relevance to the courts, however, is how to tell if an expression of remorse reflects the way someone feels about their criminal actions. Expressions of remorse can include acts of reparation before sentencing and attempts to address offending behaviours such as drug or alcohol counselling, as well as any admission of guilt through a plea of guilty (Erez & Roeger, 1995; Sentencing Act 1995 (WA), s 8). Although a plea of guilty is mentioned in most sentencing legislation around Australia, the degree of detail about other factors that may indicate remorse differs from state to state. For example, section 5 of the Sentencing Act 1991 (Vic) lists a range of issues the court must have regard to when sentencing an offender. Included in this list is whether or not the offender pleads guilty, and the timing of this plea, as well as “the presence of any aggravating or mitigating factor concerning the offender”; and “the conduct of the offender on the trial as an indication of lack of remorse on his or her part” (Sentencing Act 1991 (Vic), s 5). It does not define more specifically what behaviours are considered to demonstrate a lack of remorse, nor does it detail what factors may be taken into account as aggravating or mitigating. Section 23 of the New South Wales legislation states that offenders who cooperate with police for other investigations may also earn a mitigation of sentence (Crimes (Sentencing Procedure) Act 1999 (NSW)), but does not define this cooperation as an expression of remorse. Although the Western Australian legislation defines both ‘aggravating’ and ‘mitigating’ factors, it does not specify a definition of remorse, nor does it indicate what actions may be considered as indicative of remorse (Sentencing Act 1995 (WA), s 8). Legislation from the Australian Capital Territory includes more detail than most states about the factors that must be

taken into account at sentencing (potential mitigating or aggravating factors), including actions taken in reparation, pleading guilty and whether the person has demonstrated remorse (Crime act 1900 (ACT), s 429A). Again however, no definition of remorse is provided, and there is no detail as to what actions or statements may demonstrate remorse (or lack of remorse). Other states include similar vague references to remorse in their legislation (see Sentencing Act 1995 (NT), s 5; Penalties and Sentences Act 1992 (Qld), s 9; Criminal Law (Sentencing) Act (SA), s 10).

There is also a lack of consensus as to the definition of remorse in the psychological literature. For example, Schlenker and Darby (1981) operationalised remorse as any indication that an actor feels bad about an action, but gave no further detail or specific examples. Darby and Schlenker (1989) operationalised remorse as when an actor “appears to be really sad about what happened” and operationalised a lack of remorse as when an actor “appears to be very happy, laughing a lot about what happened” (p356). Rumsey (1976) merely stated that an actor was either “extremely remorseful” or “gave no indication of remorse”, and relied on the assumption that all participants would use a similar understanding of the term “remorse” to complete the task required. No detail was given as to how these authors identified or validated these observations of remorse and the lack of remorse. Hence, these operational definitions of remorse are of limited usefulness to the courts.

Kleinke, Wallis and Stalder (1992) described the expression of remorse as when an offender said, “I feel bad about it. I’m sorry for the woman and I wish it had never happened” (p527). This expression of remorse through the use of an apology is one that is supported by social-psychological literature (see for example, Darby & Schlenker, 1982; Ohbuchi, Kameda & Agarie, 1989; Schlenker, Weigold & Doherty, 1990). The Collins English Dictionary and Thesaurus (1993) defines an apology as “a verbal or written expression of regret or contrition for a fault or failing” (p50). As such, an apology appears to be one way of demonstrating that one is feeling regret or remorse over a wrongdoing. According to Schlenker et al. (1990) apologies are one of three remedial strategies people use to make a socially unacceptable act seem more acceptable. The other two strategies are avoidance strategies, where the actor denies guilt; and accounting strategies, where the actor admits guilt but makes excuses or justifications for the action. Apologies function to condemn the unacceptable behaviour and may show that the actor is not the type of person to act in the same way again (Darby & Schlenker, 1982).

Apologies are perceived to restore the equity between the audience and the unacceptable actor, or between the victim and the offender (Schlenker & Darby, 1981; Schlenker et al., 1990). Expressing remorse is an integral part of a comprehensive apology (Darby & Schlenker, 1982; 1989; Schlenker & Darby, 1981). As such, the function of expressions of remorse may also be to restore the equity between the victim and the offender, and to show that one is not going to act in an unacceptable way again. According to Ohbuchi et al. (1989), apologies (including expressions of remorse) appear to also function to reduce the level of aggression or punishment imposed on the transgressor (see below for details). In summary, in the search to describe the behavioural manifestations of remorse to aid the courts in assessing the presence or absence of remorse, it appears that the presence of an apology is one such expression of remorse. As such, the following discussion of social-psychological research surrounds the use of apologies, as expressions of remorse.

Researchers have examined the role of apologies and remorse in social interactions, with a developmental focus. Darby and Schlenker (1982) created vignettes about an actor with either high or low responsibility for an act resulting in either high or low consequences. The actor then either did nothing, gave a perfunctory apology by saying "excuse me", gave a standard apology by saying "I'm sorry, I feel badly about this" or gave an elaborate apology that attempted to help the victim. They asked children who were either in grade one, four or seven to listen to the story. The children were asked to answer questions about the perceived level of blame of the actor, whether and how much the actor should be punished, and whether and how much the actor felt sorry for the act. Darby and Schlenker (1982) found that children as young as four years old took both the consequences of an inappropriate act and the level of remorse of the actor into account when judging the appropriate punishment an actor should receive. In general, apologies functioned to reduce the punishments imposed. Specifically, as the consequences of the act grew more severe, and as the actor seemed more responsible for the consequences, the more elaborate the apology needed to be in order to reduce the punishment imposed.

Darby and Schlenker (1989) conducted a similar study some years later with children from grades two and five. They presented to the participants one of six vignettes, which involved an actor showing either remorse or no-remorse, giving an apology or no-apology and with a bad or good reputation. The participants were asked to rate the actor's level of blame, recommended punishment, level of intention to

transgress, motive for transgressing, level of remorse (how sorry the transgressor was perceived to be), amount of harm done, how 'likeable' and 'good' they perceived the transgressor to be, and how worried they thought the actor was about being punished. Darby and Schlenker (1989) found that if children judged an actor's character as 'good' and the actor was perceived to be remorseful, they were punished least. They also found that both conditions ('good' and 'remorseful') needed to exist for reductions in punishment imposed. The authors concluded that punishment may be applied with rehabilitation in mind during social interactions. If the actor was perceived as having a 'bad' character, participants rated the remorse expressed as not genuine. Rather than being perceived as an expression of regret, it was perceived to be a way of avoiding punishment.

Ohbuchi et al. (1989) examined the effects of an apology on a victim's aggression in a social situation. The 'victims' for this study were 58 female undergraduate students, who were led to believe they were part of an experiment involving the development of intellectual abilities. They were told that the task was very easy, and an assistant presented the stimulus in the absence of the main experimenter. The assistant then made it clear that she was making a number of errors in presenting the stimulus, which meant that each participant failed the trials. When the main experimenter returned, he commented on the failure of the participant, thereby causing harm to each participant. The assistant then either (a) apologised in front of the experimenter, (b) apologised to the participant out of hearing of the experimenter, or (c) did not apologise. The participants then filled in a questionnaire requiring them to rate on a 7-point scale their impressions of the assistant's insincerity, irresponsibility and carelessness. They were also asked to rate their own affective state on an 11-point scale of unpleasantness. Finally, participants rated the level of aggression they felt towards the assistant, by rating the level of experimental psychological skill they believed the assistant possessed (from 0 to 100). They were told by the experimenter that their ratings of skill would contribute towards the assistant's grade for the course. As such, the authors assumed that lower ratings of skill corresponded to higher aggressive feelings towards the assistant. Ohbuchi et al. (1989) found a significant main effect of apology for the impression scales, such that when the female assistant apologised (whether to the experimenter or the participants), she was rated as more sincere, more responsible and less careless than when she did not apologise at all. The presence of an apology also had an effect on ratings of experimental skill, such that when the assistant

apologised she was rated as having better skills as an experimental psychologist. From this result, the authors inferred that the female participants experienced less aggressive feeling towards the female assistant when she apologised than when she did not. The assumption that lower ratings of skill correspond to higher aggressive feelings was not directly tested in Ohbuchi et al.'s study, so the validity of these conclusions is unclear. Another difficulty of this study is that it included only female participants, limiting the scope of the results and conclusions. The current study included both male and female participants to address this limitation.

The above discussion of research indicates how apologies and expressions of remorse play a vital role in social interactions from a very early age, and can function to reduce the punishment imposed on a transgressor. As previously mentioned, in a court of law a judge or magistrate is also required to make an assessment about the level of remorse an offender demonstrates, in order to take it into account as a mitigating factor when deciding on the sentence to impose (Erez & Roeger, 1995). As such, one of the aims of the current study was to examine the role of offender remorse and its interactions with both the type of crime (person or property) and the severity of the consequences of the crime in determining sentences imposed by both male and female members of the Western Australian public. This was achieved by manipulating the level of offender remorse as an independent variable. It was expected that an examination of the role of offender remorse in sentencing would provide insight into the public's views on the place of apology and remorse in the criminal justice system in Western Australia. Further, the results of this study add to existing literature about how expressions of remorse impact on people's judgements of an actor in different social situations.

The role of the sex of the participant in sentencing

Along with the role of the victim and various offender characteristics such as remorse, researchers have examined whether the sex of the participant makes a difference to their sentencing decisions. In an American study, Sandys and McGarrell (1995) examined public attitudes towards capital punishment in Indiana. They surveyed 514 residents by telephone who were matched for age, gender and region of Indiana they lived in. Participants were asked if they favoured or opposed the death penalty in cases where people are convicted of first-degree murder. They did not specify the offender's or the victim's gender. Participants' preferences for alternative sentences such as lifetime imprisonment without parole were also assessed. Sandys and McGarrell

conducted an Ordinary Least Squares Regression on their data and found that the sex of the participant was one of the significant predictors of attitudes towards capital punishment. Male participants were more likely to favour capital punishment over alternative sanctions than female participants.

When discussing possible explanations for their results, Sandys and McGarrell (1995) turned to the literature on moral reasoning and the proposed differences in reasoning style between men and women. Gilligan (1982) was one of the first researchers to propose that men and women used different models of justice when making moral judgements. She criticised Kohlberg's (1969) stage theories of moral development because they were based on studies involving only male participants, and described the moral reasoning processes of males, with a higher value placed on the processes of justice, logic and reason than on emotion and empathy. Gilligan proposed that according to Kohlberg's model, women were assessed as being at a lower level of moral development than men, because they tended to make moral judgements using emotion and empathy. Gilligan developed her own theories of moral development, which were based on the idea that men operated from a justice-oriented framework when making moral judgements, while women operated from a care-oriented framework. Men working from justice-oriented frameworks were said to be more concerned with logic, justice and punishment, while women working from care-oriented frameworks were said to be more concerned with maintaining relationships and taking extenuating circumstances into account when making decisions that impact on people's lives. Based on studies by Gilligan (1982; see also Gilligan & Attanuchi, 1988), Sandys and McGarrell concluded that when making decisions about sanctions in their study, women may have been working from a care-oriented, compassionate framework whereas men may have been more retributive, with a focus on rights, responsibility and punishment.

Assuming the validity of these theories with respect to making decisions about sentencing an offender, it may be that men are more likely to utilise goals such as retribution and incapacitation, with their emphasis on individual punishment and responsibility. In contrast, it may be that women are more likely to utilise goals such as rehabilitation when making a sentencing decision, as this goal focuses on protection and care of the whole community through the reduction of risk of future re-offence. As such, one may expect that men would assign longer sentences and rate retribution and incapacitation as more influential than the goal of rehabilitation, whereas women may

assign shorter sentences overall and rate rehabilitation as more influential than retribution when making sentencing decisions.

The current study examined this issue by recording data for both male and female participants, and assessing any differences between sexes in sentence length assigned and attitudes towards sentencing decisions. Further research involving differences between sexes will be described within the discussion of research below. Previous research on public opinions of the role of the sex of participant, victim harm and offender remorse in sentencing person and property crimes

There is a wealth of research examining public opinions of the roles that the level of harm and / or the level of offender remorse should play in sentencing both person and property crimes (Applegate, Cullen, Link, Richards & Lanza-Kaduce, 1996; Douglas & Ogloff, 1996; Kleinke, Wallis & Stalder, 1992; Robinson, Smith-Lovin & Tsoudis, 1994; Taylor & Kleinke, 1992; Tremblay, Cordeau & Ouimet, 1994; Walker, Collins & Wilson, 1988; Zamble & Kalm, 1990). Many of these studies suffer from methodological weaknesses such as a lack of specific information about the victim, the offender and the offence, which meant that the results of many earlier studies were based on the opinions of a basically uninformed public (Fox & Freiberg, 1990; Green, 1996). Researchers from Canada and the United States have led the way in research to do with the public opinions of sentencing decisions. This research will initially be discussed, followed by the Australian research.

Amongst other factors, Applegate, Cullen, Link, Richards & Lanza-Kaduce (1996) examined the Cincinnati public opinion of the role of the level of harm in assigning sentences for an offender who caused an accident while driving intoxicated. They compared fatal driving incidents to non-fatal incidents, and participants were requested to sentence the offender in terms of years of prison. Applegate et al. (1996) found that higher levels of harm (causing death) elicited longer average sentences than low levels of harm. The authors inferred that members of the public were more likely to hold punitive attitudes when a driving offence ends in death than when it does not. They found no differences in mean sentence length assigned between three levels of non-fatal physical harm caused by the driving incidents. Nor did they find any differences in mean sentence length between male and female participants. This study examined the impact of varying levels of physical harm only. Other studies have also examined the impact of varying levels of psychological and financial harm caused by an offence.

Douglas and Ogloff (1996) asked 181 Canadian university students (male and female) to read vignettes and sentence convicted offenders of both person and property crimes in terms of months in prison. The crimes utilised in this study were based on the Criminal Code of Canada (1985) descriptions of offences and categorised into person, property or white-collar offences. The crimes used were: failing to provide the necessities of life to a child (person); sexual assault (person); robbery (property); public servant refusing to deliver property (property); criminal breach of contract (white collar); and fraudulent sale of real estate (white collar). One of the variables manipulated was the severity of harm caused to the victim (either severe or mild physical, psychological and financial harm). Douglas and Ogloff found that longer sentences were assigned for the severe harm condition than for the mild harm condition. They also found that when estimates of maximum preferred sentences were assessed, the offences against the person received higher maximum sentences than the property offences. Offences against the person also received higher maximum sentences than the white-collar offences used in the study. Further, male participants assigned higher maximum sentences than female participants. Douglas and Ogloff concluded that members of the Canadian public placed more value on human life than on property and wished to see offenders sanctioned in a way that reflected that societal value. However, it is important to note that Douglas and Ogloff did not ascertain whether the increment in severity from low to high harm conditions across types of crime was equal, such that the increase in severity from low to high for the person offences may have been perceived by participants as higher than the increase in severity for property offences. This may have confounded the results, hence their conclusions must be viewed with caution. Unfortunately, this potential confound is an issue for all studies examining differences between person and property crimes, including those discussed below, and the current study.

Zamble and Kalm (1990) attempted to address some of the criticisms directed at public opinion research by providing more information in their case descriptions. They examined the impact of manipulating the type of crime (property versus person), age of the offender (young versus old), and the presence or absence of a previous criminal record on sentences imposed by 156 male and female members of the Canadian public. The crimes involved in the vignettes increased in seriousness from shoplifting to breaking and entering, to robbery, and finally robbery with aggravated assault. Four cases were developed at each level of seriousness, totalling 16 vignettes. Zamble and

Kalm found a significant main effect for type of crime such that person crimes were assigned significantly longer sentences than property crimes. In addition, they found a significant three-way interaction of offence type, age, and record, such that there was a convergence of sentences chosen as the crimes increased in seriousness. That is, as the seriousness of the crime increased, the gaps in sentence chosen between the variables became smaller. Further, sentences chosen for the property offences appeared to be more influenced by the offender characteristics manipulated (age of offender, presence / absence of criminal history) than sentences assigned for person crimes. There were no relationships found between sex of participant and dependent variables. From these results, Zamble and Kalm inferred that members of the Canadian public perceived a greater role for offender characteristics such as age of the offender and presence or absence of criminal history in less serious crimes than in more serious crimes. The results of this study must be viewed with caution however, due to the confound between person and property crimes, such that all of the 16 offences described in the vignettes had a property crime component, eight of which involved some kind of offence against the person as well (robbery; robbery with aggravated assault). As such, it is difficult to determine whether their results with respect to the variable Type of Crime are due to a distinction between crimes against the person compared to property, or due to the increasing perceived seriousness of the offences, or some other factor. Zamble and Kalm's study controlled the manipulation of two of many possible offender variables, and they suggested that future research may be focused at teasing apart the influence and role of more of these characteristics.

Tremblay, Cordeau and Ouimet (1994) asked 299 male and female members of the Canadian public to read five detailed criminal cases, and assess the seriousness of offences committed. They were then asked to sentence the offender, by choosing from a number of legal sanctions. The participants were also asked to rate on a seven point scale the importance they placed on each sentencing goal when sentencing each offender, tapping into which sentencing goal(s) the participant thought was being satisfied by their sentence (retribution, rehabilitation, incapacitation or deterrence). The cases consisted of two property offences, a fraud offence, and two personal injury offences, and they increased in seriousness from a man with no prior record who stole a television worth \$200, to a repeat offender who killed a bank security guard while committing a bank robbery. Tremblay et al. (1994) found that on average, respondents assigned longer sentences for person than for property offences. They also found that in

the property and fraud cases, the public generally agreed that rehabilitation was a key goal whereas incapacitation or retribution was considered more important in the person offences. Further, those participants who emphasised retribution tended to assign longer sentences than those who emphasised rehabilitation. This implies that retribution may be associated with harsher sentencing practices for certain types of crime. Tremblay et al.'s results may be partly explained by the increasing severity of the crimes overall as they moved from property to person crime. That is, the property crimes resulted in less harm and may have been perceived as less serious than the person crimes, so it may be that participants were rating the level of harm or the seriousness of the crimes, rather than the generic type of crime. Thus, their findings must be interpreted with caution. Another limitation of this study is that because the authors derived their vignettes from actual court cases, they did not control for any of the victim, offender or crime factors. As such, it is not possible to determine which factors the participants placed most weight on when making a decision. The current study attempted to separate the influence of the type of crime and the severity of the crime, by creating various levels of seriousness for both person and property crimes, while controlling all other victim and offender variables.

Walker, Collins and Wilson (1988) asked male and female members of the Australian public what they thought appropriate sentences were for various offences. They found that the public had a tendency to punish violent offenders with imprisonment, and property offenders with non-custodial sanctions, such as community service. Less educated participants were found to be more punitive and males assigned longer sentences than females. The main limitation of this study was that it did not provide the full circumstances of the cases, but presented participants with a single sentence about the crime and its effects. Hence, the conclusions of this research were based on the opinions of a basically uninformed sample of the Australian public. Additionally, the equality of the increment in severity for person and property offences was not determined.

Taylor and Kleinke (1992) studied the effects of remorse and level of harm on judgements of a male driver who was found to be drunk while driving. They asked 320 male and female undergraduate university students to read a vignette that detailed a drink driving case, with either severe or not severe consequences of the accident, previous or no previous drunk driving history, admission or denial of intent, and either remorse or no remorse. Remorse was indicated by the offender stating either "I feel

terrible. I have a lot of guilt and remorse” (remorse condition), or “I don’t feel one way or another. It just happened” (no remorse condition) (p1645). Participants rated the driver on a variety of personality adjectives, and were asked to recommend both a fine amount and prison sentence for the offender. Taylor and Kleinke found that whether the offender either expressed or denied remorse made no significant difference to the sanctions assigned. The sex of the participant also made no significant difference to sanctions assigned or personality adjectives rated. Further, it was revealed that as the level of harm caused by the accident increased, so did the average length of prison sentence assigned and the average fine assigned. Taylor and Kleinke concluded that the participants were working largely from a retributive goal when assigning sanctions, because the severity of the accident appeared to be the main determinant of the sentence chosen.

Kleinke, Wallis and Stalder (1992) examined the impact of expressing or denying remorse, by male and female undergraduate psychology and sociology students, on evaluations of a rapist. Participants watched one of four five-minute videos of an interview with a convicted rapist, who either expressed or denied intent and either expressed or denied remorse. Remorse was expressed when the rapist said, “I feel bad about it. I’m sorry for the woman and I wish it had never happened” (p527). Remorse was denied when the rapist said, “I don’t feel one way or another about it. I just did what I had to do” (p527). Participants rated the rapist on dimensions of responsibility for the rape, seriousness of the crime, the rapist’s potential for rehabilitation, and also rated the perceived level of remorse and intent of the offender. They then sentenced the offender in terms of years in jail. Kleinke et al. (1994) found that more favourable evaluations of the rapist were given when he expressed rather than denied remorse. There were no main effects or interactions found between sex of participant and any of the dependent variables. Although no significant main effect for sentence assigned was found between the conditions of expressed versus denied remorse, consistent with Taylor and Kleinke’s (1992) research, Kleinke et al. found that sentences assigned did correlate significantly with participants’ perceptions of the rapist’s remorse. The more remorse that was attributed to the offender, the shorter the sentence imposed by participants. Although these results are consistent with the theory previously discussed about the role of perceptions of remorse in reducing judgements of deserved punishment, they are not compelling statistically, given that the manipulation that was designed to determine perceptions of remorse had no impact on participants’ perceptions of remorse. The

authors may not have found a significant difference between the manipulated conditions of remorse due to a lack of strength or relevance of their operational definition of remorse, which meant that participants may have been accessing their own previously conceived ideas about what 'remorse' means. It may also have been due to participant's views as to whether the expressions of remorse were genuine or not, consistent with Darby and Schlenker's (1989) research.

Robinson, Smith-Lovin and Tsoudis (1994) instructed 80 male and female university students in Arizona to recommend sentences for offenders who pleaded guilty to vehicular manslaughter. They created two vignettes where the offenders said the same words, and manipulated the nonverbal cues of remorse that the offender exhibited. One vignette involved the offender exhibiting behaviours consistent with high emotional distress such as "tears running; hands covering face; broken up voice" (p 183), and the other exhibited behaviours consistent with low emotional distress such as "relaxed facial expressions; makes eye contact; arms resting on chair arms" (p183). Robinson et al. (1994) proposed that demonstrations of emotional distress were indicative of a high level of remorse felt by the offender, whereas a lack of emotional distress was indicative of a low level of remorse. Robinson et al. found an effect of displays of remorse on the sentence assigned, with shorter mean sentences assigned to the high remorse condition than to the low remorse condition. It was concluded that visible displays of emotion impacted on sentences through judgements about the culpability of the offender, such that an offender showing high remorse was seen as less responsible and less likely to reoffend than an offender showing low remorse.

In summary, previous research has used descriptions of offences with varying amounts of detail, and asked participants to sentence offenders based on the facts presented. Both the Canadian and Australian researchers have found similar results. When the impact of varying the harm caused by an offence is measured, public participants have been found overall to assign longer sentences to cases involving high harm than to those involving low harm (Applegate et al., 1996; Douglas & Ogloff, 1996; Taylor & Kleinke, 1992; Walker et al., 1988). Further, public participants have assigned longer sentences to various offences against the person than against property (Douglas & Ogloff, 1996; Tremblay et al., 1990; Walker et al., 1988; Zamble & Kalm, 1990), however these results need to be interpreted with some caution, given the potential inability to determine the equality of the increment in severity across types of crimes.

Some of the studies reviewed examined goals of sentencing, and found that the public participants appeared to emphasise rehabilitation when sentencing for a property offence, whereas retribution was emphasised when sentencing for a person offence (Tremblay et al., 1994; Walker et al., 1988). In addition, retribution appears to be associated with harsher sentences and rehabilitation with more lenient sentences (Tremblay et al., 1994). With respect to manipulations of remorse, it appears that the more remorse demonstrated by an offender, both verbally and behaviourally, the shorter the sentence assigned by participants (Kleinke et al., 1992; Robinson et al., 1994; Taylor & Kleinke, 1992). Some studies reviewed found that male participants assigned longer sentences overall than female participants, regardless of the levels of harm or remorse manipulated (Douglas & Ogloff, 1996; Walker et al., 1988), perhaps indicating different ideas of justice between the sexes (Sandys & McGarrell, 1995). Other studies found no difference between sexes of the participants on dependent variables such as sentence length (Applegate et al., 1996; Kleinke et al., 1992; Taylor & Kleinke, 1992; Zamble & Kalm, 1990), and still others made no mention of sex differences (Robinson et al., 1994; Tremblay et al., 1994).

The current study

Following on from previous research, the current study examined the views of a sample of male and female members of the Western Australian public on the roles of victim harm and offender remorse for both person and property crimes. Various limitations of the research reviewed were addressed in the current study. A common criticism of public opinion research on sentencing is that the cases are not detailed, hence the data obtained are not from an informed sample (Fox & Freiberg, 1990; Green 1996). Given that the aim of the current research was to provide informed public opinion so that the views of society can best be served by policy makers, the study attempted to provide an informed context for participants. Included in vignettes were the facts of a case as presented to a court (not the media), personal circumstances of the offender, any prior convictions, and information from both victim impact statements and pre-sentence reports. The offender pleaded guilty, and the format used in the vignettes mirrored the process in Australian courts when a guilty plea has been entered. See Appendix A for full details of vignettes.

Applegate et al. (1996) and Taylor and Kleinke (1992) both assumed that the public worked from a retributive framework when sentencing for high harm cases, seemingly because longer sentences were assigned to cases involving high levels of

harm. The current study investigated this assumption by asking participants, in an open-ended format, for the reasons they chose a particular sentence. Participants were also asked to rate on a seven-point scale the influence of four sentencing goals on the sentence chosen.

Tremblay et al. (1994) addressed many of the criticisms of public opinion research, but used actual court cases as their vignettes. As such, they were not able to separately manipulate variables that may increase the perceived seriousness of a crime (such as level of harm or offender remorse). They were also not able to keep all other variables constant. The vignettes in the current study had all information about the case, the offender and the victim kept constant except for the variables being manipulated (level of offender remorse, type of crime and level of victim harm). Hence, the results obtained in the current study are more likely to be as a result of manipulation of the independent variables. Much of the research reviewed thus far suffered from the limitation of the difficulty of determining the equality of the severity of offences used for both person and property crimes. The current study was also unable to avoid this particular pitfall, and this issue will be discussed further at a later date. See Appendix A for full details of vignettes.

As previously mentioned, the overall aim of the current study was to add to research that identifies which factors are perceived by members of the public to be relevant to the sentencing decision. This information may be used by policy makers to assist in the search for uniformity in sentencing and / or may be used to educate the public about sentencing issues. One of eight vignettes were distributed to approximately equal numbers of male and female members of the Western Australian public. Each vignette described either a person or property offence, with either high or low victim harm and high or low offender remorse. As such, the independent variables were sex of participant (male or female), type of crime (person or property), level of harm (high or low), and offender remorse (high or low). The dependent variables were sentence length (measured on an 11 point scale of 0 to 10, where 0 = no jail and 10 = 10 years jail), goal influence, where participants rated the influence of four sentencing goals: deterrence, incapacitation, retribution and rehabilitation (measured on a 7 point scale of 0 to 6, where 0 = no influence on my choice of sentence, and 6 = total influence on my choice of sentence) and a qualitative measure of the reasons for their choice of sentence. For the purposes of this research, the goal of deterrence was described as “persuades or warns others not to commit crimes such as the one being sentenced”; the goal of

retribution was described as “punishes the offender and condemns the behaviour”, the goal of incapacitation was described as “prevents the offender from offending again, by controlling his behaviour (for example, through imprisonment)”, and the goal of rehabilitation was described as “gets treatment for the offender, to reduce the risk of him committing more crimes”. Some demographic data were also collected. See Appendix B for full details of the questionnaire used.

The person offence used in the current study consisted of an employee who stabbed his employer in the upper back with a screwdriver, and the property offence consisted of an employee who stole from his employer one night when the business was closed. For the purposes of this research, the variables of victim harm and offender remorse were operationalised as follows. Level of victim harm was defined as including physical, emotional and financial harm, in order to replicate the circumstances of a victim impact statement. High harm was operationalised as including permanent injury to health (paraplegia) or severe damage to a building; severe distress to the victim and the victim’s family, an inability to continue doing activities of previous enjoyment, high stress, nightmares, lack of sleep, change in personality, huge financial loss or ruin, lack of insurance, and inability to afford counselling. Low harm was operationalised as including total physical recovery or minor damage to building covered by insurance, a minimum of distress to the victim and his family, no disruption to daily living and functioning, ability to continue working, insurance covered all harm, and something positive arising from the trauma (for example, time to spend with his family, or improving the morale of the other workers).

Given the varying operational definitions and functions of remorse detailed in the literature reviewed previously, the conditions of high and low remorse were operationalised using a combination of factors common to the existing literature, including certain behaviours, verbal statements and pleas of guilty. Nonverbal indications of remorse (or lack of it) were excluded due to a possible lack of face validity involved in including them in a written vignette. As such, high offender remorse was operationalised as including an early plea of guilty, an indication that the offender had done some action of reparation before sentencing (such as offering to pay for damage), an indication that the offender had already taken steps to address his offending behaviour (such as drug or alcohol counselling), and a verbal component consisting of the offender stating that he is sorry for the incident, wishes it had never happened, and stating that he will never do it again. Low remorse was operationalised

as including a late plea of guilty, an indication that the offender had done nothing about reparation or his offending behaviour before court (such as continuing to drink or take drugs) and a verbal component where the offender stated that he did not care about the effects of the offence and would do the same thing again. See Appendix A for full details of the vignettes.

The overall research question addressed in the current study was what impact does the level of victim harm and offender remorse have on sentencing judgements of person and property crimes by a sample of male and female members of the Western Australian public? Further, this study examined public views about which of the sentencing goals should be afforded prominence in sentencing of these crimes. The results obtained in the present study could be of use for the policy makers of Western Australia, in that they provide an informed public opinion of the roles of victim harm and offender remorse for certain person and property crimes. Thus, the results add to existing literature that attempts to identify the relevant factors to be taken into account when sentencing in order to achieve uniformity in sentencing.

Method

Design

The design of the study was 2 x 2 x 2 x 2 between subjects factorial. The independent variables were: type of crime (person or property); level of victim harm (high or low); level of offender remorse (low or high); and sex of participant (male or female). The dependent variables were: length of sentence assigned; rated influence of sentencing goals on sentence choice (retribution, deterrence, incapacitation and rehabilitation); and responses to an open-ended question about the reasons for the sentence chosen. Demographic data were also collected.

Participants

The participants were 193 adult members of the general public of Perth, Western Australia (over 18 years of age). The majority of the participants were train commuters travelling into and out of Perth City. A total of 240 questionnaires were distributed during data collection, and 205 were completed, corresponding to a response rate of 85.4%. The responses of 12 participants were removed as they had missing responses across at least one independent variable, leaving a total of 193 respondents. The responses of 10 participants were identified as outliers for the independent variable of sentence length. Further analyses were conducted (see below for detail) and these

outliers were included in the final sample. Table 1 shows the number of participants in each of the 16 conditions for the final sample ($n = 193$).

Table 1

Number of Participants in Each of the 16 Experimental Conditions

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Female participants							
Property crime	10	11	21	11	12	23	44
Person crime	11	11	22	14	14	28	50
Male participants							
Property crime	11	11	22	11	11	22	44
Person crime	14	14	28	14	13	27	55
TOTAL							
Property crime	21	22	43	22	23	45	88
Person crime	25	25	50	28	27	55	105

Of the final sample, there were 99 (51.3%) male respondents, and 94 (48.7%) female respondents. Participants covered a wide range of ages (18 years to over 60 years), the largest proportion being in the 26 to 35 year old range (25.9%). Participants came from a variety of occupations, including students, trades people, teachers, home duties, police, self-employed and lawyers. Participation was voluntary, and participants remained anonymous.

Materials and Procedure

The researcher collected data over two days in August 1997. Data were collected between 9am and 4pm each day. Participants were informed that the study was about the public's views on sentencing, and a brief description of the task was given. Questionnaires were distributed in a matched random assignment, to ensure an approximately equal number of males and females completed each of the eight questionnaires. Questionnaires consisted of three parts. Part A involved reading an overview of a case, and assigning a sentence for the offender on an 11-point scale (0 = no jail, 10 = 10 years jail). Participants were also asked the reasons for the sentence chosen, in an open-ended question format. Part B involved rating on a 7-point scale (0 = no influence, 6 = total influence) how much influence four sentencing goals

(retribution, rehabilitation, incapacitation, and deterrence) had on the sentence chosen. A brief description of each goal was provided, as previously outlined. Part C consisted of demographic questions. See Appendix B for full details of the questionnaire.

Instructions were presented at the beginning of each task in the questionnaire, with examples provided as to how to respond. One of eight cases was included in each questionnaire. Each case consisted of an overview of the facts of either a person or property crime, with either high or low victim harm, and either high or low offender remorse. Each case included the general circumstances of the offence and the offender, potential aggravating factors and potential mitigating factors. In each case the offender pleaded guilty to the offence. The person offence consisted of an employee stabbing his employer in the back with a screwdriver, and the property offence consisted of an employee breaking into the business and stealing from his employer. Aggravating factors included intent to injure; premeditation; level of victim harm; use of a weapon; and a previous record of similar offences. Mitigating factors included the rehabilitation prospects and character of the offender, any circumstances requiring sympathy, level of remorse of the offender, and the level of provocation of the crime. See Appendix A for full details of the vignettes. The data were collated and analysed as below.

Statistical Analyses

An alpha level of .05 was used for all statistical tests, unless otherwise specified. The original set of data ($n = 193$) was screened for violations of assumptions. Ten within-cell outliers (cases with z scores in excess of ± 3.00) were identified for the independent variable of sentence length. Following the recommendations of Tabachnick and Fidell (1994), the data were analysed with these outliers transformed to ± 2.00 standard deviations from the mean, and the same pattern of results was found. As such, the outliers were included in the data set.

A four way ($2 \times 2 \times 2 \times 2$) factorial MANOVA was conducted on a total of 193 cases. Dependent variables included were sentence length (in years), and ratings of the influence of the goals of deterrence, incapacitation, rehabilitation and retribution on sentence choice. Independent variables examined were type of crime, level of harm, level of remorse, and sex of respondent. Pearson product-moment correlations were performed between the sentence goal ratings and sentence length variables. The qualitative data were coded as either 'present' or 'absent', according to themes of response. As this dependent variable was categorical in nature, chi-square analyses were performed for all independent variables.

Results

Sentence Length Assigned

Means and standard deviations of sentence length as a function of type of crime, level of remorse, and level of harm, for male and female respondents are presented in Table 2 and Table 3 respectively. As Tables 2 and 3 show, male and female participants assigned the longest sentences, on average, for the case involving a person crime, a high level of victim harm and low level of offender remorse (male: \underline{M} = 5.857 years, \underline{SD} = 1.610; female: \underline{M} = 5.571 years, \underline{SD} = 2.821). Across all participants, the mean sentence length assigned for this case was also the longest (\underline{M} = 5.714 years, \underline{SD} = 2.258). Male and female participants assigned the shortest sentences, on average, for the case consisting of a property crime, low level of victim harm and high level of offender remorse (male: \underline{M} = 1.364 years, \underline{SD} = 1.689; female: \underline{M} = .818 years, \underline{SD} = 1.250). Across all participants, the mean sentence length assigned for this case was also the shortest (\underline{M} = 1.091 years, \underline{SD} = 1.477).

Table 2

Mean Sentence Length Assigned (Years) For Levels of Victim Harm, Offender Remorse, and Type of Crime for Male Participants

Type of crime	Low harm			High harm			Table Total
	Level of remorse		Total	Level of remorse		Total	
	Low	High		Low	High		
Property							
Mean	2.181	1.363	1.773	2.364	1.818	2.091	1.932
\underline{SD}	1.401	1.689	1.572	1.502	1.537	1.509	1.531
\underline{n}	11	11	22	11	11	22	44
Person							
Mean	3.714	1.857	2.786	5.857	5.000	5.444	4.091
\underline{SD}	2.585	2.179	2.529	1.610	2.345	2.006	2.634
\underline{n}	14	14	28	14	13	27	55
Total							
Mean	3.040	1.640	2.340	4.320	3.542	3.939	3.131
\underline{SD}	2.245	1.955	2.200	2.340	2.553	2.453	2.452
\underline{n}	25	25	50	25	24	49	99

Note. Sentences were assigned on 11-point scales (0 = no jail, 10 = 10 years jail).

\underline{SD} = Standard Deviation. \underline{n} = number of participants.

A significant main effect was found for type of crime, $F(1, 173) = 37.794$, $p = .000$, such that the mean sentence length was highest for cases involving person as opposed to property crimes (person: $M = 3.895$, $SD = 2.738$; property: $M = 2.000$, $SD = 1.729$). The main effect of level of victim harm was also significant, $F(1, 173) = 28.949$, $p = .000$, such that cases involving a high level of victim harm received higher sentences than those involving a low level of harm (high harm: $M = 3.840$, $SD = 2.643$; low harm: $M = 2.161$, $SD = 2.045$). The final significant main effect was for the level of offender remorse, $F(1, 173) = 23.134$, $p = .000$, such that cases involving a low level of offender remorse received higher sentences than those with high levels of remorse (low remorse: $M = 3.781$, $SD = 2.485$; high remorse: $M = 2.289$, $SD = 2.323$). The main effect of sex of participant was not significant, $F(1, 173) = .479$, $p = .490$ (male: $M = 3.131$, $SD = 2.452$; female: $M = 2.926$, $SD = 2.583$).

Table 3

Mean Sentence Length Assigned (Years) For Levels of Victim Harm, Offender Remorse, and Type of Crime for Female Participants

Type of crime	Low harm			High harm			Table Total
	Level of remorse		Total	Level of remorse		Total	
	Low	High		Low	High		
Property							
Mean	2.000	0.818	1.381	3.727	1.750	2.696	2.068
<u>SD</u>	0.817	1.250	1.203	2.611	1.357	2.245	1.922
<u>n</u>	10	11	21	11	12	23	44
Person							
Mean	3.636	1.364	2.500	5.571	3.643	4.607	3.680
<u>SD</u>	2.419	1.206	2.198	2.821	2.977	3.010	2.860
<u>n</u>	11	11	22	14	14	28	50
Total							
Mean	2.857	1.091	1.953	4.760	2.769	3.745	2.926
<u>SD</u>	1.982	1.231	1.851	2.833	2.519	2.834	2.583
<u>n</u>	21	22	43	25	26	51	94

Note. Sentences were assigned on 11-point scales (0 = no jail, 10 = 10 years jail).

SD = Standard Deviation. n = number of participants.

The only interaction that was significant for this dependent variable was between type of crime and level of harm, $F(1, 173) = 6.807, p = .010$. This interaction is illustrated in Table 4 (also see Figure 1), which shows that as the level of harm increased, sentences increased more for person crimes (low harm: $M = 2.660$; high harm: $M = 5.018$) than for property crimes (low harm: $M = 1.581$; high harm: $M = 2.400$).

Table 4

Mean Sentence Length Assigned (Years) for Interaction Between Type of Crime and Level of Harm.

Type of crime	Level of victim harm		TOTAL
	Low	High	
Property			
Mean	1.581	2.400	2.000
<u>SD</u>	1.401	1.923	1.729
<u>n</u>	43	45	88
Person			
Mean	2.660	5.018	3.895
<u>SD</u>	1.370	2.578	2.738
<u>n</u>	50	55	105
TOTAL			
Mean	2.161	3.840	3.031
<u>SD</u>	2.045	2.643	2.512
<u>n</u>	93	100	193

Note. Sentences were assigned on an 11-point scale (0 = no jail, 10 = 10 years jail).

SD = Standard Deviation. n = number of participants.

The two-way interactions for type of crime and offender remorse, $F(1, 173) = 1.012, p = .316$, type of crime and sex of participant, $F(1, 173) = 1.369, p = .244$, level of harm and offender remorse, $F(1, 173) = .119, p = .730$, level of harm and sex of participant, $F(1, 173) = .160, p = .690$, and offender remorse and sex of participant, $F(1, 173) = 1.905, p = .169$, were not significant. Nor were the three-way interactions between type of crime, level of harm and offender remorse, $F(1, 173) = .616, p = .433$, type of crime, offender remorse and sex of participant, $F(1, 173) = .017, p = .897$, and level of harm, offender remorse and sex of participant, $F(1, 173) = .526, p = .469$. The

four way interaction between type of crime, level of harm, offender remorse and sex of participant was also not significant, $F(1, 173) = .030, p = .863$.

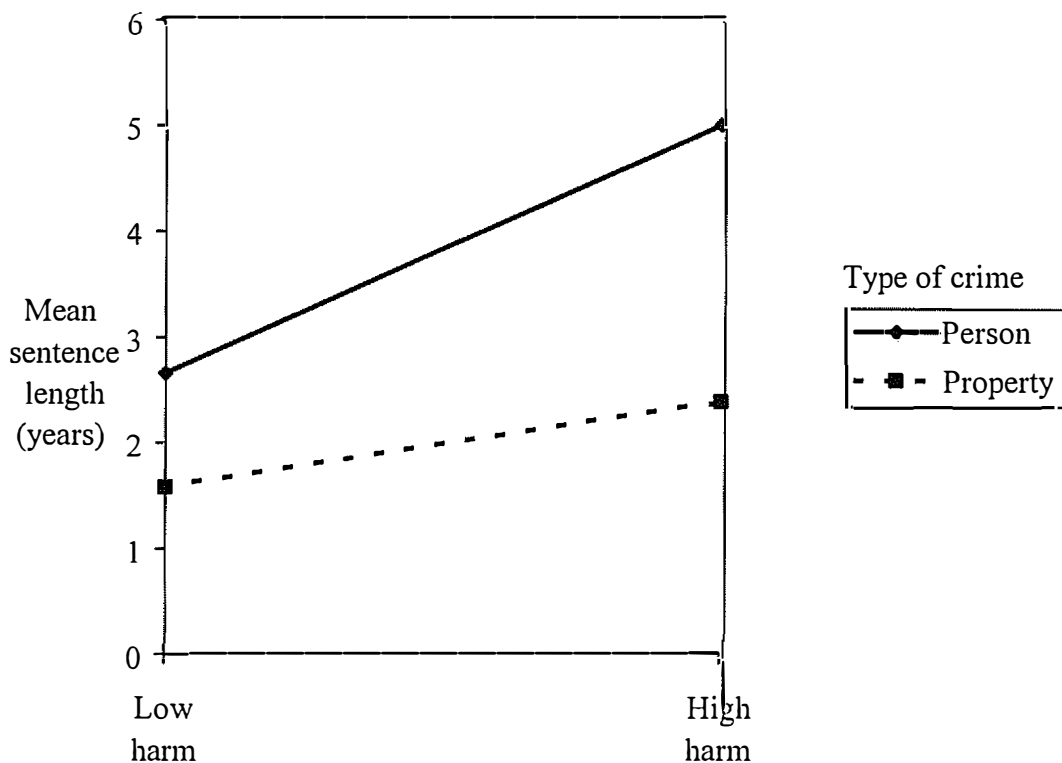


Figure 1. Mean Sentence Length (Years) for Interaction Between Level of Harm and Type of Crime.

Influence of sentencing goals on sentence choice

Ratings of the influence each goal had on sentence choice were made on a seven-point scale (0 = no influence, 6 = total influence). The goal rated as having the most overall influence on participants' sentencing choices was Rehabilitation ($M = 4.275, SD = 1.818$), followed by Retribution ($M = 3.404, SD = 1.777$). Incapacitation was rated the second lowest influence on sentencing choices ($M = 3.197, SD = 1.921$), and Deterrence was rated as having least influence ($M = 2.663, SD = 1.905$). The mean ratings for each goal as a function of type of crime, level of harm and level of remorse by male participants can be found in Appendix C, and Appendix D shows the same data for female participants.

For these dependent variables, the MANOVA revealed a main effect of type of crime for the goal of retribution, $F(1, 173) = 4.143, p = .043$, such that participants rated retribution as being more influential in their choice of sentences for person crimes ($M = 3.638, SD = 1.771$) than for property crimes ($M = 3.125, SD = 1.754$). A second

main effect was found of sex of participant for the goal of rehabilitation, $F(1,173) = 4.056$, $p = .046$, such that overall, female participants rated rehabilitation as being more influential on their sentence choice than males (female: $M = 4.553$, $SD = 1.630$; male: $M = 4.010$, $SD = 1.951$). There were no other significant main effects. See Appendix E for a list of all statistical results.

Two significant two-way interactions were found. The first, for the goal of deterrence, was between type of crime and level of harm, $F(1,173) = 6.607$, $p = .011$ (see Table 5). As Table 5 shows (also illustrated in Figure 2), for person crimes, as the level of harm increased, participants rated deterrence as significantly more influential in their sentencing decisions (low harm: $M = 2.240$, $SD = 2.036$; high harm: $M = 3.055$, $SD = 1.919$), whereas for property crimes, as the level of harm increased ratings of the influence of the goal of deterrence decreased (low harm: $M = 2.953$, $SD = 2.081$; high harm: $M = 2.378$, $SD = 1.419$).

Table 5

Mean Ratings of Influence of Goal of Deterrence on Sentence Choice by Level of Harm and Type of Crime

Type of crime	Level of harm		TOTAL
	Low	High	
Property			
Mean	2.953	2.378	2.659
<u>SD</u>	2.081	1.419	1.787
<u>n</u>	43	45	88
Person			
Mean	2.240	3.055	2.667
<u>SD</u>	2.036	1.919	2.008
<u>n</u>	50	55	105
TOTAL			
Mean	2.569	2.750	2.663
<u>SD</u>	2.077	1.737	1.905
<u>n</u>	93	100	193

Note. The ratings were made on a seven point scale (0 = no influence, 6 = total influence). SD = Standard Deviation. n = number of participants.

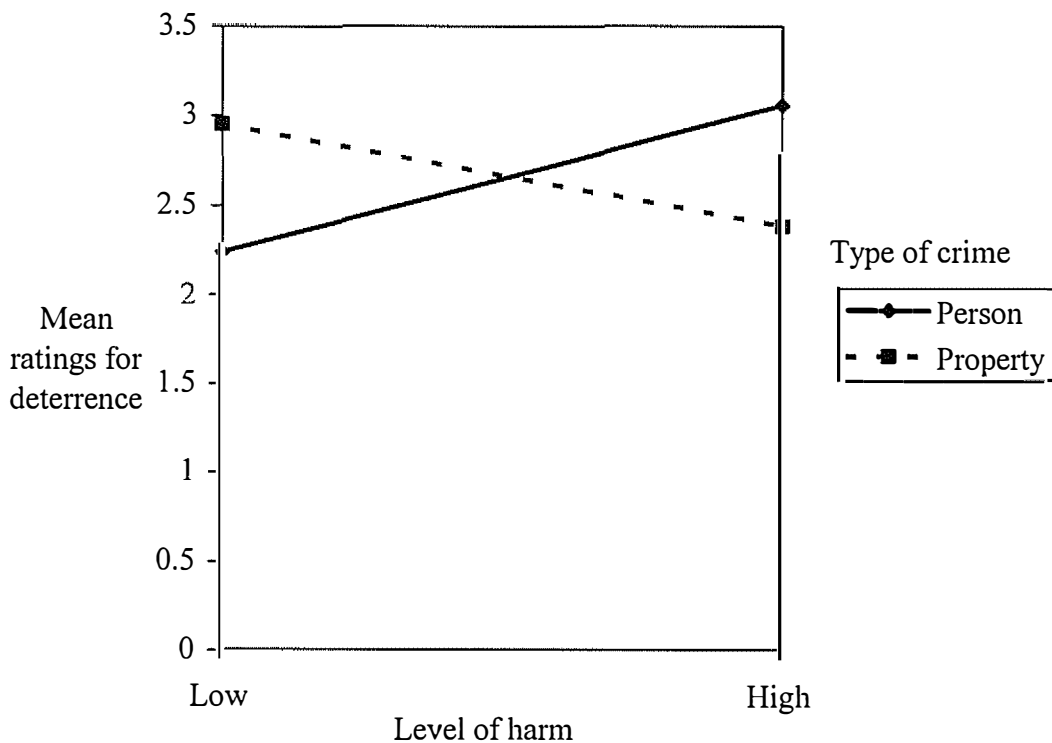


Figure 2. Mean Ratings of Goal of Deterrence for Interaction Between Level of Harm and Type of Crime.

The second significant interaction was also for the goal of deterrence, between level of harm and level of remorse, $F(1, 173) = 4.685, p = .032$ (see Table 6 and Figure 3). As Table 6 shows, when cases involved a low level of harm, deterrence was rated as being more influential on sentence choice if high remorse was present compared to when low remorse was present (high remorse: $M = 2.851, SD = 2.167$; low remorse: $M = 2.283, SD = 1.963$). However, for cases involving a high level of harm the opposite pattern was apparent, with deterrence being rated as more influential for cases involving low remorse of the offender than those involving a high level of remorse (high remorse: $M = 2.460, SD = 1.656$; low remorse: $M = 3.040, SD = 1.784$). No other significant two-way interactions were found for the goals of sentencing, and none of the three-way or four-way interactions were found to be significant for any of the sentencing goals (see Appendix E for details).

Table 6

Mean Ratings of Influence of Goal of Deterrence on Sentence Choice by Level of Harm and Level of Remorse

Level of remorse	Level of harm		TOTAL
	Low	High	
<u>Low</u>			
Mean	2.283	3.040	2.677
<u>SD</u>	1.963	1.784	1.900
<u>n</u>	46	50	96
<u>High</u>			
Mean	2.851	2.460	2.649
<u>SD</u>	2.167	1.656	1.921
<u>n</u>	47	50	97
<u>TOTAL</u>			
Mean	2.570	2.750	2.663
<u>SD</u>	2.077	1.737	1.905
<u>n</u>	93	100	193

Note. The ratings were made on a seven-point scale (0 = no influence, 6 = total influence). SD = Standard Deviation. n = number of participants.

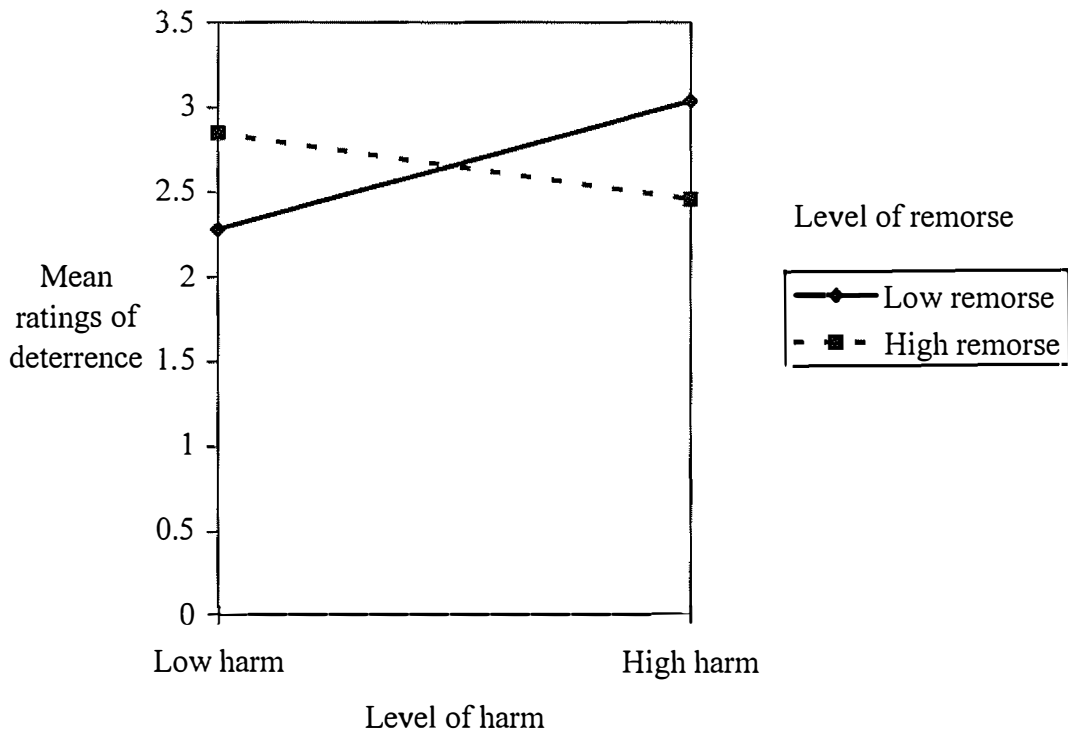


Figure 3. Mean Ratings of the Goal of Deterrence for the Interaction Between Level of Harm and Level of Remorse.

The final analysis conducted on the rating of sentencing goal data consisted of Pearson product-moment correlations of the ratings of each goal with sentence lengths assigned by participants. Significant correlations were found for ratings of retribution with sentence length [$r(193) = 0.281, p < 0.01$], ratings of rehabilitation with sentence length [$r(193) = -0.158, p < 0.05$], and ratings of incapacitation with sentence length [$r(193) = 0.283, p < 0.01$]. Although statistically significant, the correlations obtained were not very predictive, each accounting for approximately 8% or less of the variance in sentence lengths assigned (Retribution: $r^2 = 0.079$; Rehabilitation: $r^2 = 0.025$; Incapacitation: $r^2 = 0.080$). These correlations were examined separately for male and female participants, and significant correlations were found for ratings of retribution with sentence length for both male and female participants [male: $r(99) = 0.329, p < 0.01$ ($r^2 = 0.108$); female $r(94) = 0.242, p < 0.05$ ($r^2 = 0.059$)], ratings of incapacitation with sentence length [male: $r(99) = 0.318, p < 0.01$ ($r^2 = 0.101$); female $r(94) = 0.259, p < 0.05$ ($r^2 = 0.067$)]. Again, although significant, these correlations are not very predictive, each accounting for approximately 11% or less of the variance in sentence length assigned. Further, the correlations between rehabilitation and sentence length for both

male and female participants were non-significant [male: $r(99) = -0.179$, $p = 0.076$; female $r(94) = -0.125$, $p = 0.228$].

Participants' Reasons for Sentence Chosen

Of the 193 participants, 185 (90 female and 95 male) respondents completed the open-ended question concerning the reasons for their sentence choice. The following results are based on this sample of 185 participants. Participants may have mentioned more than one reason. The responses were grouped into 15 themes, and coded as to whether each participant mentioned the theme or not. As Table 7 and 8 show, the most common reason provided for the sentence chosen was to do with rehabilitation of the offender ($n = 123$ (63.70%)), followed by the previous convictions of the offender ($n = 64$ (33.20%)), the background of the offender ($n = 63$ (32.60%)), offender remorse ($n = 62$ (32.10%)), and the level of victim harm ($n = 59$ (30.60%)). The reasons mentioned the least by participants were the offender's intent to cause harm ($n = 13$ (6.70%)), and the possibilities of more harm ('what might have happened') ($n = 12$ (6.20%)).

Chi-squares were conducted on the coded qualitative data as a function of all of the independent variables. Table 7 shows frequencies for sex of participant, and Table 8 shows frequencies for type of crime. Tables 9 and 10 show the frequencies for the variables of level of victim harm and level of offender remorse, respectively.

As Table 7 shows, a significant relationship was found between the presence or absence of 'previous convictions of the offender' and sex of participant, $\chi^2(1, N = 185) = 10.564$, $p < .01$, such that 43 male respondents (45.26%) mentioned the previous conviction history of the offender as a reason for the sentence assigned whereas only 20 female respondents (22.22%) mentioned it. There were no other significant relationships found for the variable of sex of participant, indicating no significant differences in frequency between male and female participants in the reasons chosen for their sentence.

Table 7

Frequency of Reasons Given for Sentence Assigned, by Sex of Respondent

Reason given for sentence	Sex of Respondent		TOTAL (<u>n</u> = 185)
	Male (<u>n</u> = 95)	Female (<u>n</u> = 90)	
Background of Offender	27	36	63
Deterrence	17	17	34
Incapacitation	7	8	15
Intent to cause harm	9	4	13
Level of victim harm	29	30	59
Longer jail term damaging	9	15	24
Offender remorse	33	29	62
Possibility of more harm	8	4	12
Premeditation	10	5	15
Previous Convictions **	43	21	64
Provocation	10	6	16
Rehabilitation	60	63	123
Responsible for actions	8	8	16
Restitution	9	12	21
Retribution	24	24	48

Note. ** significant χ^2 at $p < .01$.

As illustrated in Table 8, a significant relationship was found between the presence or absence of 'intent of offender to cause harm' and type of crime, $\chi^2 (1, N = 185) = 5.437, p < .05$, such that 11 participants (11.11%) mentioned the intent of the offender for cases involving a person crime whereas only 4 participants (2.25%) mentioned intent for those cases involving a property crime. A significant relationship was found between the presence or absence of 'possibility of more harm' and type of crime, $\chi^2 (1, N = 185) = 11.147, p < .01$, such that the possibility of the offender causing more damage to the victim ('what might have happened') was mentioned as a reason for the sentence in cases involving a person crime by 12 participants (12.12%), whereas none of the participants mentioned this reason for cases involving a property crime. The final significant relationship found for the variable of type of crime was for the presence or absence of 'restitution', $\chi^2 (1, N = 185) = 5.924, p < .05$, such that 15 participants (17.44%) mentioned restitution as a reason for a sentence for cases involving a property

crime whereas only 6 participants (6.06%) mentioned this reason for cases involving a person crime. There were no other significant relationships found for the variable of type of crime, indicating that there were no significant differences in frequency between person and property crimes for those reasons.

Table 8

Frequency of Reasons Given for Sentence Assigned, by Type of Crime

Reason given for sentence	Type of Crime		TOTAL (<u>n</u> = 185)
	Property (<u>n</u> = 86)	Person (<u>n</u> = 99)	
Background of Offender	29	34	63
Deterrence	13	21	34
Incapacitation	6	9	15
Intent to cause harm *	2	11	13
Level of victim harm	27	32	59
Longer jail term damaging	15	9	24
Offender remorse	28	34	62
Possibility of more harm **	0	12	12
Premeditation	4	11	15
Previous Convictions	35	29	64
Provocation	8	8	16
Rehabilitation	54	69	123
Responsible for actions	7	9	16
Restitution *	15	6	21
Retribution	21	27	48

Note. * significant χ^2 at $p < .05$. ** significant χ^2 at $p < .01$.

The chi-square revealed a number of significant differences for the variable of level of victim harm, as can be seen in Table 9. A significant relationship was found between level of harm and the presence or absence of 'incapacitation' as a reason for the sentence assigned, $\chi^2(1, \underline{N} = 185) = 6.651, p < .01$, such that 12 participants (13.48%) cited this reason for their sentence for cases involving low harm, whereas only 3 participants (3.13%) cited incapacitation as a reason for cases involving high harm. It is interesting to note that a significant relationship was found between level of harm and the presence or absence of 'level of victim harm' as a reason for the sentence assigned, $\chi^2(1, \underline{N} = 185) = 6.651, p < .01$, such that 17 participants (19.10%) cited this reason for

cases involving a low level of harm whereas 42 participants (43.75%) cited this reason for cases involving high harm. A third significant relationship was found between level of harm and the presence or absence of the reason 'possibility of more harm', $\chi^2(1, N = 185) = 6.378, p < .05$, such that 10 participants (11.24%) cited this reason for cases involving low levels of harm, whereas only 2 participants (2.08%) cited it for cases involving high harm. The relationship between level of harm and the presence or absence of 'premeditation' as a reason for sentence assigned was also found to be significant, $\chi^2(1, N = 185) = 3.006, p < .01$, such that 4 participants (4.49%) cited this reason for low harm cases whereas 11 participants (11.46%) cited this reason for high harm cases.

Table 9

Frequency of Reasons Given for Sentence Assigned, by Level of Victim Harm

Reason given for sentence	Level of Harm		TOTAL ($n = 185$)
	Low ($n = 89$)	High ($n = 96$)	
Background of Offender	25	38	63
Deterrence	18	16	34
Incapacitation **	12	3	15
Intent to cause harm	6	7	13
Level of victim harm **	17	42	59
Longer jail term damaging	15	9	24
Offender remorse	31	31	62
Possibility of more harm *	10	2	12
Premeditation **	4	11	15
Previous Convictions	31	33	64
Provocation	6	10	16
Rehabilitation	59	64	123
Responsible for actions	6	10	16
Restitution	6	15	21
Retribution *	16	32	48

Note. * significant χ^2 at $p < .05$. ** significant χ^2 at $p < .01$.

'Retribution' was mentioned as a reason for sentence assigned for low harm cases by 16 participants (17.98%) and for high harm cases it was mentioned by 32 participants (33.33%). This relationship was also found to be significant, $\chi^2(1, N =$

185) = 5.668, $p < .05$. There were no other significant relationships found for the variable of level of victim harm.

Finally, as Table 10 shows, there was one significant relationship found for the variable of level of offender remorse. This relationship was between level of remorse and the presence or absence of 'intent to cause harm' as a reason for sentence assigned, $\chi^2(1, N = 185) = 3.973, p < .05$, such that 10 participants (10.75%) cited this reason for cases involving low levels of remorse whereas only 3 participants (3.26%) cited the offender's intent as a reason for cases involving high level of offender remorse. There were no other significant relationships found between levels of offender remorse and the presence or absence of other reasons for sentence assigned.

Table 10

Frequency of Reasons Given for Sentence Assigned, by Level of Offender Remorse

Reason given for sentence	Level of Remorse		TOTAL ($n = 185$)
	Low ($n = 93$)	High ($n = 92$)	
Background of Offender	29	34	63
Deterrence	17	17	34
Incapacitation	9	6	15
Intent to cause harm *	10	3	13
Level of victim harm	35	24	59
Longer jail term damaging	10	14	24
Offender remorse	30	32	62
Possibility of more harm	9	3	12
Premeditation	10	5	15
Previous Convictions	37	27	64
Provocation	6	10	16
Rehabilitation	66	57	123
Responsible for actions	8	8	16
Restitution	8	13	21
Retribution	19	29	48

Note. * significant χ^2 at $p < .05$.

Discussion

Summary of main research findings

With respect to the sentence length data, significant main effects were found for type of crime, such that longer sentences were assigned for person than for property cases; level of victim harm, such that longer sentences were assigned for cases involving high harm than for low harm cases; and level of offender remorse, such that longer sentences were assigned for cases involving low remorse than for high remorse cases. The main effect of sex of participant was not significant. A significant two-way interaction was found between type of crime and level of harm, such that as the level of harm increased, sentences increased more for person crimes than for property crimes.

The sentencing goal rated as having the most influence on sentence choice overall was rehabilitation, followed by retribution, incapacitation and finally deterrence. A main effect of type of crime for retribution was significant, such that retribution was rated as being more influential for cases involving person crimes than for property crime cases. There was a significant main effect of sex of participant for the goal of rehabilitation, such that female participants rated rehabilitation as more influential overall, than male participants.

A positive correlation was found between ratings of the goal of retribution and sentence length data for both male and female participants. A negative relationship was found between ratings of the goal of rehabilitation and sentence length, but this disappeared when the data were analysed separately for male and females. The final positive correlation for both male and female participants occurred between ratings of the goal of incapacitation and sentence length. Although statistically significant, these correlations were not very predictive, each accounting for less than 11% of the variance in sentence lengths assigned.

The research questions

The overall research question of the current study was concerned with the impact of varying levels of victim harm and offender remorse in property and person crimes, on sentencing judgements made by both male and female members of the Western Australian public. Other research questions were to do with examining which of the sentencing goals this sample of the Western Australian public utilised when making sentencing decisions. These questions will be answered in the discussion below, with reference to the results of this study and to the existing literature.

The role of the victim in sentencing

One of the aims of the current research was to determine public opinions of the role that the harm caused by the crime (the consequences of the offence) should play in sentencing offenders who plead guilty. It was expected that members of the Western Australian public would highlight a role for victim harm in sentencing, such that cases involving high harm would be assigned longer sentences than those resulting in low levels of harm. The implications of these results for the common law test of 'reasonable foreseeability' and for the future education of the public will be discussed. Potential explanations for the results will also be explored, particularly with respect to the goals of sentencing utilised by participants when making their decisions.

Past research has found that public participants in Canada, the United States and Australia have, overall, assigned longer sentences to cases involving high levels of victim harm than to those involving low harm (Applegate et al., 1996; Douglas & Ogloff, 1996; Taylor & Kleinke, 1992; Walker et al., 1988). These findings were supported in the current study by the main effect of level of victim harm, whereby respondents reacted to more serious impact of the crime on the victim by assigning longer sentences to high harm cases than to low harm cases. Although the current study did not directly assess public views about the inclusion of victim impact statements at the sentencing phase, the results do indicate that information about the consequences of each crime have been utilised when making sentencing decisions.

On its own, the finding of a main effect for type of crime does not provide much insight into public opinion, although it is consistent with the findings of researchers such as Douglas and Ogloff (1996), Tremblay et al. (1994), Walker et al. (1988), and Zamble and Kalm (1990), all of whom found that person crimes were assigned longer sentences than property crimes. This result may reflect a value of participants that harm to people is more serious than harm to property, hence should result in longer sentences. Of more interest is the interaction between type of crime and level of victim harm, such that an increase in the level of harm had more impact on the increase in sentence assigned for person crimes than for property crimes. Before interpreting this result, it is important to note that the current study was subject to similar assumptions and difficulties as some of the past research (see, for example, Douglas & Ogloff, 1996; Tremblay et al., 1994; Zamble & Kalm, 1990). That is, although attempts were made to create equality of harm across the type of crime variable, it was not determined whether the increment in severity in the property cases was equal to the increment in severity for

the person cases. It may be, for example, that participants perceived the high harm person cases to be more serious than the high harm property case. This potential confound in design could explain the interaction found in the current study. It may be, for example, that participants perceived the harm caused in the severe property crimes as potentially reversible (the damage to the building could be repaired), whereas they perceived the harm caused in the severe person crime as irreversible (paralysis). If the harm caused by a crime is perceived as irreversible, the crime may also have been perceived as more serious than if the damage can be repaired. If participants were sentencing with a 'just deserts' or proportionality principle in mind, they would sentence the offender whose actions resulted in more perceived harm (irreversible) more harshly than an offender whose actions resulted in reversible harm. The above discussion is purely speculation at this point, and requires further research to more fully explore the reasoning processes of public participants.

Implications. The results discussed above have implications for the test of reasonable foreseeability, and for decisions about educating the public on sentencing matters. However it is important to be cognisant of the assumptions on which these implications are based. The first assumption is that the argument made earlier in this paper that an informed public opinion should be the basis of sentencing policies, is valid, and that policy makers would find this information useful when making their legislative decisions in the search for uniformity in sentencing, or when making decisions about educating the public about sentencing issues. The second assumption is that the design of the current study fulfilled its aim of providing an informed context within which participants could make their decisions. Taking these assumptions into consideration, the following potential implications may arise.

As previously discussed, the inclusion of victim input into the sentencing equation could in theory mean that an offender is held responsible for the harm caused by his or her actions whether the harm is reasonably foreseeable or not (Ashworth, 1993; Hinton, 1996). The results described above indicate that the participants in the current study were using the information about the severity of the consequences of the crime to assist them in making a decision about sentencing. What remains to be determined in future research is what weight to lend to the potentially subjective information about the impact on an individual victim, when sentencing an offender. If for example, information about the harm caused to a victim is given priority over and above other factors in determining a sentence (such as the intent of the offender, or other

aggravating or mitigating factors), it could make an offender criminally responsible for the victim's individual frailties (or lack of them), that determine the mental and emotional effects of the crime, even if the offender did not intend for those effects to happen and could not reasonably foresee them. This rather extreme situation would, then, go against the test of reasonable foreseeability.

These findings and their implications raise many questions about where members of the public would draw the line, in terms of what kind of situations they perceive as being the result of an "accident", and how would the public be satisfied that an offender lacked intent to harm, if not by the test of reasonable foreseeability? Are members of the public concerned at all with the intent (or lack) of the offender? If so, where is the balance found between taking the consequences of the crime into consideration, and taking the intent of the offender into account? There may also be implications for the functions of the criminal courts as opposed to the civil courts, such that if the criminal courts begin to sentence on the basis of the subjectively reported outcomes of a crime, what is the function of the civil courts, where a victim of crime can currently seek restitution? Therein lies the risk that this function of the civil courts becomes obsolete. All of the above questions are topics for future research.

The above discussion must be perceived as speculation at this stage, however, and some caution is required when interpreting these results, given that the vignettes used in the current study did not distinguish between harm that was reasonably foreseeable and harm that was not. In order to more accurately shed light on this public perception, future research is needed to make the distinction between harm that is reasonably foreseeable and harm that is not. For example, it may be of interest to conduct a similar study with two levels each of the variables of harm (low and high) and intent (accident and intent to harm).

A different way to interpret these results is to examine what they may mean in terms of educating the public about sentencing matters. It may be, for example, that the participants sampled in the present study were not aware of the implications of their decision-making processes for the legal test of reasonable foreseeability. In fact, they may not have been aware of the existence of such a test. They may also have not understood the difference between the civil and criminal courts, nor been aware of the other avenues open to victims of crime, such as using the civil courts to gain monetary compensation for their financial, physical and emotional losses. Assuming that they were not aware of these issues, the results may highlight a need for education of the

public about such legal principles and theories, and about the options that are available for victims of crime. It is not known at present whether public participants would use different decision-making processes once educated in such a way, but it would be interesting to examine this hypothesis in future research.

Another factor that may have impacted on the decisions made by participants is their style of reasoning and the goals of sentencing they accessed when choosing a sentence, as will be further explored below.

The influence of sentencing goals on sentencing decisions. Participants were asked to rate the influence of each of the four main sentencing goals when assigning a sentence (retribution, deterrence, rehabilitation and incapacitation), in order to tap into their beliefs about the relative importance of each goal in sentencing for different crimes. Based on past research, it was expected that rehabilitation would be emphasised more when sentencing for property than for person offences, and that retribution would be emphasised more when sentencing for person than for property offences (Tremblay et al., 1994). Similar to Tremblay et al.'s results, a main effect of type of crime for ratings of the goal of retribution was found, such that retribution was rated as being more influential for cases involving person crimes than for property crimes. However, contrary to expectations, no main effect was found of type of crime for rehabilitation, indicating that participants rated rehabilitation as an influential reason regardless of whether they were sentencing a person or property crime. This may reflect a belief of participants that rehabilitation of offenders is equally important whether the crime is one of assault, or against property.

Of further interest to the question of which sentencing goals do members of the public access when assigning a sentence were the results of qualitative responses that detailed in an open-ended format the reasons participants gave for assigning a sentence. For example, overwhelmingly, the most common response by participants was to do with rehabilitation of the offender, with the majority of participants mentioning this reason. Three offender variables followed rehabilitation in frequency of response (previous convictions, offender remorse, and background of the offender), and the level of victim harm was next in frequency. In sixth place were reasons to do with retribution.

Taken at face value, the above results appear to indicate that regardless of the length of sentence assigned, most participants believed that they assigned a sentence in order to aid rehabilitation of the offender. This conflicts somewhat with the finding that

a high level of harm resulted in significantly longer sentences than a low level of harm, implying a victim focus and more retributive or vengeance-based attitude of participants. If rehabilitation truly was the main concern of participants, it may have been expected that factors such as the intent of the offender or the foreseeability of the harm caused would have more impact on sentence length than the level of harm. For example, regardless of the level of harm, if the harm caused was found to be not reasonably foreseeable, the offender would not be held responsible for it and may be perceived as requiring less imprisonment than an offender who intended to cause harm to the victim. This did not appear to be the case in the current study, but the intent and foreseeability were not examined as dependant variables, so further research is required to more accurately examine this issue. Further support for the hypothesis that participants were working from a retributive rather than rehabilitative framework comes from other areas of the current study. For example, a positive correlation was found between ratings of the goal of retribution and sentence length data, and a negative correlation was found between ratings of rehabilitation and sentence length data (view correlations with caution however, due to low predictive value). This means that overall, longer sentences were associated with higher ratings on retribution and shorter sentences were associated with higher ratings on rehabilitation. The hypothesis that participants were sentencing for retributive reasons is also supported by the finding that within their qualitative responses, participants mentioned 'retribution' and 'level of victim harm' more for cases involving high levels of harm than for those involving low levels of harm. This seems to suggest that particularly at high levels of harm, participants sentenced the offender based on the consequences of the crime, regardless of the level of intent. Overall, it appears that there is more evidence for the hypothesis that participants were assigning sentences for retributive reasons than there is for the hypothesis that they were aiming for rehabilitation for offenders. Further information about the reasons for assigning sentences will be revealed when the differences in results between sexes of participants are discussed below.

The apparent conflicts discussed above may provide further support for the notion that although open-ended questions are designed to minimise social-desirability bias, the participants may have responded to the open-ended questions and to the rating of sentencing goals with such a bias (Whitley, 1996), whereas their sentence choices may reflect more honestly their feelings about the deserved punishment of the offender. However, it may also be the case that the vignettes used in the current study focused the

participants towards issues of victim harm, rather than issues of intent, which would also aid in explaining the results.

In terms of the implications of the above results, if as the weight of evidence from the current study suggests, participants sentenced for largely retributive reasons, then the sentencing legislation in Western Australia does seem to reflect the underlying opinions of the participants surveyed, with its focus on proportionality and punishment. Given that the majority of participants surveyed also appeared to believe that they sentenced the offender for the reason of rehabilitation, a further message to policy makers may be that there could be an emerging role for rehabilitation when sentencing offenders. This raises the question of how rehabilitation is implemented for offenders and has implications for resourcing of treatment programs to aid rehabilitation. There are also implications for Western Australian policy makers in that it may be useful to include goals other than retribution in legislation which guides the judiciary of the state. Other states of Australia have already made this modification to their sentencing legislation. For example, in Victorian legislation guidelines for sentencing are provided that highlight each goal and allow the judiciary to consider them all when sentencing an offender (Sentencing Act 1991 (Vic), s 5). This type of legislation allows the judiciary to use their discretion as to what weight is assigned to each goal (see also Crimes Act 1900 (ACT), s 429; Criminal Law (Sentencing) Act 1988 (SA), s 10; Penalties and Sentences Act 1992 (Qld), s 9; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Sentencing Act 1997 (Tas), s 3). Further research is required to more effectively tease apart the decision-making processes of members of the public, in order to determine how much weight to give to what appears to be largely a social-desirability bias.

Other results of interest in the qualitative response section were that the possibility of more harm being caused by the offender was only mentioned for person cases, providing support for the interaction between level of victim harm and type of crime, perhaps indicating a belief by participants that the harm caused by the offence is particularly relevant for crimes against people, rather than property crimes. In contrast, the results demonstrated that any attempts by the offender to make restitution for the crime was reported to be more relevant for property offences than for those against the person. It may be that the participants surveyed in the current study associated the concept of restitution with making financial amends, hence reflecting the notion that

harm caused by property crimes is more easily translated to monetary terms than harm to a person. The validity of this speculation will depend on the results of future research.

It is also interesting to note that of the top five qualitative reasons given for assigning a sentence, only one (rehabilitation) corresponded to the formal goals of sentencing utilised by the judicial system in Australia. One explanation for this result is that the participants did not generally think in terms of these four goals when assigning a sentence. Assuming this inference is correct, the implications for policy makers may be that either the goals do not reflect the underlying decision-making processes of the participants in this study, or that more education is required about the legislative requirements that confine the sentencing decisions of the judiciary. Further research could examine this issue in greater detail.

The current study also revealed some findings that have not been reported in the literature reviewed thus far. A two-way interaction was found for the goal of deterrence, between level of victim harm and type of crime, such that for person crimes, deterrence was rated as more influential as the level of harm increased, whereas for property crimes deterrence was rated as less influential as the level of harm increased. This interaction appears to indicate a belief by participants that crimes against people which result in high harm require sentencing more for deterrence reasons than property crimes resulting in high harm. In contrast, offences against property involving low levels of harm require sentencing more for deterrence reasons than person crimes resulting in low harm. This pattern of results is not easy to explain. Although it appears to make intuitive sense that participants would believe that when an assault results in high harm there is a high need to sentence for deterrence reasons, the finding that crimes against property resulting in low harm require more deterrence than high harm property crimes is perplexing.

The second finding not discussed in literature reviewed thus far was a two-way interaction between level of harm and level of remorse, also for the goal of deterrence. When cases involved low levels of harm, deterrence (defined as warning others not to commit similar crimes) was rated as more influential for cases involving high levels of remorse than for low levels of remorse. However, when cases involved high levels of harm, deterrence was rated as more influential for cases involving low levels of remorse than for high levels. Again, this finding is difficult to interpret, and it is important to note that the differences between each point of the interaction were less than 0.8 of a

ratings point in all cases. As such, although found to be statistically significant, these differences in mean ratings may not achieve clinical significance.

The impact of offender remorse on sentencing decisions

Demonstrations of remorse are perceived as mitigatory in nature in Australian courts and are taken into account to potentially assign a less severe sanction to an offender (Sentencing Act 1995 (WA), s 8; see also Crimes Act 1900 (ACT), s 429A(1); Crimes (Sentencing Procedure) Act 1999 (NSW), s 22; Criminal Law (Sentencing) Act 1988 (SA), s 10; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Penalties and Sentences Act 1992 (Qld), s 9). The level of offender remorse was included in the current study in order to examine the views of members of the Western Australian public about the appropriateness of including apology and remorse in the sentencing phase. Past research has found that public participants have, overall, assigned longer sentences to cases involving low offender remorse than to those involving high offender remorse (Kleinke et al., 1992; Robinson et al., 1994). The main effect of remorse found in the current study supports these findings, in that the participants assigned longer sentences to cases involving low remorse than to those involving high remorse. The elements of the high remorse condition used in the current study were an early plea of guilty, an attempt at restitution, an attempt to show willingness to not offend again in the future and an awareness that the offence was 'wrong'. In comparison, the low remorse condition included a late plea of guilty, no attempts at restitution, and a statement to the effect that the offender had no intention of ceasing the offending behaviour. As such, the result of an overall main effect of remorse may indicate a value of participants that someone who breaks a societal rule needs to admit the wrong, show that they are sorry and indicate that they will not transgress in that way again in the future in order to avoid a more harsh punishment. This is consistent with the previously discussed psychological research and theory about how apologies function in social interactions (Darby & Schlenker, 1982; Ohbuchi et al., 1989; Schlenker et al., 1990).

The presence of a main effect of offender remorse and the lack of interactions between offender remorse and the other independent variables for sentence length indicates that expressions of offender remorse function to either increase (low remorse) or decrease (high remorse) the sentence assigned regardless of the type of crime, level of victim harm or sex of the respondent. These results have implications for policy makers

in that they suggest that members of the public may perceive a role for judgements about the level of remorse displayed by the offender in determining sentence outcomes.

All the scenarios utilised in the current study involved the offender entering a plea of guilty to the court. As mentioned earlier in this paper, under current sentencing legislation in Australia, a plea of guilty can be taken as a sign of remorse and the sentence assigned may be mitigated accordingly (Sentencing Act 1995 (WA), s 8; see also Crimes Act 1900 (ACT), s 429A; Crimes (Sentencing Procedure) Act 1999 (NSW), s 22; Criminal Law (Sentencing) Act 1988 (SA), s 10; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Penalties and Sentences Act 1992 (Qld), s 9) (note: a plea of not guilty is not perceived as an aggravating factor (Sentencing Act 1995 (WA), s 7)). Given that all scenarios in the current study included a plea of guilty, and the level of offender remorse still had an overall effect on sentence length, it appears that the participants used information about the timing of the plea (early or late), or other factors (such as attempts at restitution, apologies or an awareness that the offence is wrong), when attributing remorse and sentencing an offender (Darby & Schlenker, 1982; 1989; Erez & Roeger, 1995). These results have implications for the sentencing legislation of most of the states of Australia. For example, although all Australian legislation allows for any mitigating or aggravating factors to be taken into account as determined relevant by the judge or magistrate, specific indications of remorse over and above a plea of guilty are not defined within the legislation (Crimes Act 1900 (ACT), s 429A; Crimes (Sentencing Procedure) Act 1999 (NSW), s 22; Criminal Law (Sentencing) Act 1988 (SA), s 10; Sentencing Act 1991 (Vic), s 5; Sentencing Act 1995 (NT), s 5; Sentencing Act 1995 (WA), s 8; Penalties and Sentences Act 1992 (Qld), s 9). More detail in legislation based on informed opinions of the public may assist the judiciary to be more uniform in their sentencing judgements. However, before any legislative changes are made, more research is required in order to more accurately tease apart the relative influence of each of the many elements of offender remorse included in the current study.

Research conducted with children has found that as the consequences of an act became more severe, the more elaborate an apology needed to be (including expressions of remorse) to restore the social equity and reduce the punishment imposed (Darby & Schlenker, 1982). As such, it was expected that as the level of harm increased, remorse would be more influential in determining sentence length. However, this was not the case, as there was no interaction found between the level of harm and level of remorse.

It may be that the reasoning processes for this type of task change between childhood and adulthood. It may also be that decisions about punishment are made differently in social situations where the level of harm caused is in general likely to be less than in criminal situations. These speculations require further research to determine their validity.

The impact of sex of participant on sentencing decisions

The current study included the sex of the participant as an independent variable in order to provide further information about the types of reasoning used by the different genders. A main effect of sex of participant was found for ratings of rehabilitation, such that female participants rated rehabilitation as more influential than male participants. At first glance this finding appears to provide support for Sandys and McGarrell's (1995) proposal that men were more likely to sentence for retributive reasons, whereas women were more likely to use rehabilitative reasons for their sentence choice. As previously mentioned, Sandys and McGarrell hypothesised that men may be more rights and punishment oriented (retribution), whereas women focus more on the importance of empathy, compassion and care in human relationships (rehabilitation). However, the finding that ratings of retribution were positively correlated with sentence length and ratings of rehabilitation were negatively correlated with sentence length, indicates that generally, the longer the sentence the more retributive the reason for the sentence. Combine this finding with the notion that if rehabilitation, compassion and care were important to women, it could be reasonably expected that they would sentence with more lenience than the male participants, then one would expect to find a main effect of sex of participant for the sentence length data. This was not the case in the current study - there were no significant differences found in sentence length assigned by women compared to men, contrary to the findings of Douglas and Ogloff (1996) and Walker et al. (1988). It appears that although female participants rated rehabilitation as more influential than male participants, this was not supported by other results. One explanation for this apparent inconsistency may be that women were more concerned with appearing socially acceptable by rating rehabilitation higher than other goals.

Summary of the implications of the current study

In summary, male and female members of the Western Australian public have read scenarios involving differing levels of offender remorse and harm to the victim, for both person and property crimes, and sentenced the offender accordingly. They have

also rated the influence of each of four sentencing goals, and described the reasons why they sentenced as they did. Although the results of the current study were largely consistent with those of previous research, the current study attempted to extend those results by providing an informed context for public participants to assign a sentence, and by linking quantitative ratings of the influence of sentencing goals with qualitative reasons given for the sentences chosen.

In answering the research questions posed at the commencement of this study, there are both practical and theoretical implications for policy makers, legislation, and common law. These implications are based on the assumptions that the data were collected in a more informed context than previous research, and that the opinions discovered are those of an abiding, underlying community sentiment. The implications are also based on the assumption that the increments in severity between levels of harm and across types of crime were equal. It is also important to note that the results of the current study were limited in that they were particular only to the types of crimes described in the scenarios (a burglary of a business and a physical assault), and to male offenders and male victims of these crimes. Thus the results and implications can not be generalised to all crimes. For example, if one of the crimes used was a child sexual offence, one may expect incapacitation would have been rated as more influential on sentence choice. Future research will need to be cognisant of these limitations and address them accordingly.

Results indicated that information about the impact of the crime on the victim (physically, financially and emotionally) was used by participants when making sentencing decisions for both person and property crimes. One explanation for this result may be that participants were also found to be sentencing largely for retributive, vengeance-based reasons, as explained below. This finding has potential implications for the test of reasonable foreseeability, and gives rise to a number of questions for future research, surrounding issues such as where the public would draw the line between accident and intended harm, and questions about the ongoing role of the civil courts in this matter. It may also be that members of the public require education on the roles and functions of the different courts in order to raise their consciousness about the services currently available to victims of crime, and on legal principles and theories that guide judicial decision-making. However, in the current study the variable of victim harm included harm that was attributable to the victim's frailties (such as some of the psychological impact of the crime) as well as harm that was attributable to the offender

(such as some of the physical or financial impact). This confounded the variable and made it difficult to determine which parts of the harm variable were influencing the judgement of responsibility and hence, the length of the sentence assigned. As such, further research is required in order to fully address the issue of reasonable foreseeability, by teasing out the impact of harm variables that are attributable wholly to the offender compared to those that are not. Future research in this area could also tease apart the differences in impact of physical versus financial versus emotional or mental harm on sentence assigned and attitudes towards the offender. Further, the relative weights that should be given to each of these factors also remains to be determined, providing another topic for future research.

When answering the question of which of the sentencing goals participants access when sentencing an offender, it appeared that overall there was more evidence for the hypothesis that participants were working from a retributive framework than there was for the hypothesis that they were working from a rehabilitative framework. Taking the earlier mentioned assumptions into consideration, one message to policy makers arising from these results may be that the current sentencing legislation in Western Australia is an accurate reflection of the abiding views of the community, with its focus on retributive aims of sentencing. It may also be however, that the public are tentatively indicating support for the inclusion of other goals as well as retribution (such as rehabilitation, incapacitation or deterrence) in more specific detail at the sentencing phase. This implication arises from the participants' ratings of goals other than retribution as influential in their sentencing decisions. The possibility of an emerging role for rehabilitation at the sentencing phase was reflected in the results, raising the question of how rehabilitation is implemented in the correctional system. However, further research is required to clarify this finding to determine whether it is a function of a social-desirability bias particularly by female participants.

The results of the current study also provided support for the social-psychological literature involving the role of remorse and apology in society (for example, see Ohbuchi et al., 1989; Schlenker et al., 1990) and indicated that participants found information about the level of remorse displayed by the offender useful when determining a sentence. The current study included many factors to indicate when an offender was demonstrating high levels of remorse, over and above a plea of guilty. Future research is required to examine the individual impact of factors other than a plea

of guilty on the sentence outcome (such as the timing of the plea, attempts at restitution, apologies, or an awareness that the action was wrong).

The current study found no impact of the sex of the participant on the sentence lengths assigned, regardless of the type of crime, level of victim harm or level of offender remorse, consistent with much of the research reviewed (Applegate et al., 1996; Darby & Schlenker, 1989; Kleinke et al., 1992; Taylor & Kleinke, 1992; Zamble & Kalm, 1990). Female participants did however, rate rehabilitation as more influential on their sentence choice than male participants. Although this appears to provide support for Sandys and McGarrell's (1995) proposition that men work from a retributive framework whereas women work from a rehabilitative framework, this hypothesis was not supported by other quantitative results. It may be that female participants were more concerned with appearing socially acceptable than male participants, so rated rehabilitation as more influential. Future research is required in order to more fully explore these issues.

In conclusion, the current research has attempted to provide informed public opinion about the roles of the level of victim harm and offender remorse for a sample of both person and property crimes, so that the views of Western Australian society can best be served by policy makers, whether through legislation or education of the public. The main findings of interest were that the level of victim harm appears to figure prominently in the public's mind when making a decision about sentencing an offender, particularly for crimes such as assault. Further, the level of remorse demonstrated by the offender over and above a plea of guilty was also perceived as useful at the sentencing phase. It also appeared that although the majority of participants believed they sentenced for rehabilitative reasons, they were actually more retributive in the sentence lengths assigned. This research has added to existing literature that attempts to identify the relevant factors to be taken into account when sentencing, in order to achieve uniformity in sentencing, while retaining the judicial discretion and independence upon which the Australian criminal justice system rests.

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Appendix A

The Questionnaire Developed for Use in the Current Study**PART A**

Your task is to read the case below, and then **assign a sentence** for the offender. You will be asked how many years jail (if any) you think the offender should serve.

You will also be asked for the **reasons** you chose that sentence.

The Case:

[insert case 1 - 8 in here]

Now sentence the offender:

- Now that you have read the facts of the case, **place a circle** around the number of years jail you would give the offender:

(eg - '0' = no jail; '8' = eight years jail).

0	1	2	3	4	5	6	7	8	9	10
no jail					5 years					10 years
					jail					jail

What are the **reasons** you chose that sentence?

PART C

This is the final part of the questionnaire. Please **put a cross (X)** in the box that describes you.

1. Age

18 - 21 years

22 - 25

26 - 35

36 - 45

46 - 60

over 60

2. Gender

Male

Female

3. Highest level of education

Year 10

Year 12

Tertiary qualification

Postgraduate qualification

Other _____

4. Main Occupation

That completes the questionnaire.

Thankyou for your participation - it is greatly appreciated.

If you have any questions, feel free to ask the researcher.

Appendix B

Details of Case Vignettes Used in QuestionnaireCase 1: Person crime, low harm, low remorse

On Tuesday, 13th May 1997, Robert Brown pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 4pm on Friday, 22nd November 1996, Robert Brown stabbed his supervisor, Stuart Smith, in the upper back with a screwdriver. Robert Brown is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Stuart Smith, was Brown's supervisor and owner of the garage where the offender worked. Smith is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. The screwdriver used to stab Smith was from the garage. The screwdriver narrowly missed Smith's spine and missed all organs and nerves. Smith was treated for a puncture wound at an outpatient clinic of the local hospital, and discharged that day. He was back at work after a week, and the muscle damage repaired itself after two weeks of 'light duties'.

The statement Brown gave the police can be summarised as follows:

Robert Brown had been working at the garage for nearly eight months when the offence occurred. Stuart Smith was the garage owner, who had apparently started "picking on him" two months after Brown started working at the garage. Brown said Smith had been making comments about the quality of his (Brown's) work and his reputation as a troublemaker as often as twice a day, for nearly six months. Brown said that normally he would ignore Smith's comments, but was becoming increasingly angry at Smith as the weeks continued, and the comments did not stop. Brown admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Brown he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Brown said he had been having a bad day at work. On the first job of the day Brown accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Smith). This led to Smith reprimanding Brown for the incident, forcing Brown to apologise to the customer. When lunch time came, Brown discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt angry

again. Instead of eating lunch, Brown drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Brown said he was drinking to help control the high level of tension and anger he was feeling by this time.

Around 3.30pm, Smith started making more comments about Brown's work skills and how bad they were. Brown said this was the "last straw", and he decided to "teach Smith a lesson". Brown stewed over Smith's comments for almost half an hour, then took a screwdriver from the bench and confronted Smith in his office just before 4pm. After shouting at each other for a few minutes, Brown lunged at Smith with the screwdriver, saying he "wanted to hurt him, to show him what it is like". Smith managed to twist away, and the screwdriver landed in the top of his back. Brown then grabbed his toolbox and ran to his car, driving off and leaving Smith to find help for himself. When questioned by the police, Brown initially denied the charges, but eventually pleaded guilty and made a full statement.

Brown admitted thinking about attacking Smith before, but didn't think he'd ever go through with it. The offender told the police that the stabbing made him feel much better to have "taught the guy (Smith) not to mess with me", and "straight away I felt the tension and stress go away". He added that "the guy (Smith) deserved it for annoying me" and that he would do it again if he was in a similar situation.

The following information was also submitted to the Court:

Stuart Smith is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Smith had worked hard to be in a position where he could buy and run his own garage. He takes pride in the efficiency of the garage, and for the high quality of work his mechanics do. He says he gets along well with most people and always has.

Smith returned to work within a week and the wound repaired itself with no complications. He did not suffer any loss of income, as one of the senior mechanics took over while he was away. Smith said that though the wound was painful for a while, he valued the week off as a way of spending time with his wife and children. His social life has been unaffected, and Smith was able to resume his weekly games of sport after two weeks rest. He was able to resume work without fear and has not had any nightmares. Hence, the defence submitted to the Court that Smith was not suffering from emotional or mental effects of the offence, and that the damage was minor.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Brown has a previous criminal record consisting of three convictions for common assault and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds, which were completed successfully. Brown does not wish to do anything to make up for the stabbing, and has continued to drink alcohol to excess. He is now unemployed and says he does not want to take part in any therapy programs to address either his anger / violence problem or his alcohol misuse. Brown's rehabilitation prospects are assessed as moderate. He has never stabbed someone before, but has been in trouble with fist-fighting in the past. He has a chequered employment history, often being fired for aggression to co-workers or customers, or for drinking alcohol while working. The longest Brown has held down a job is one year.

Brown has been married for 14 years. His wife says she tried to be supportive of her husband (Brown) over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Brown's alcohol problem tends to get in the way, using money that could be put to better use. She admitted that she and Brown fight quite a bit about his drinking and frequent job changes.

Brown was brought up in a family that used violence and alcohol to solve problems, and he does not seem aware of any other ways of dealing with stress or tension. He says his childhood was littered with beatings and he learned that was the only way to survive. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family.

Case 2: Person crime, low harm, high remorse

On Monday, 7th April 1997, Robert Brown pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 4pm on Thursday, 14th November 1996, Robert Brown stabbed his supervisor, Stuart Smith, in the upper back with a screwdriver. Robert Brown is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Stuart Smith, was Brown's

supervisor and owner of the garage where the offender worked. Smith is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. The screwdriver used to stab Smith was from the garage. The screwdriver narrowly missed Smith's spine and missed all organs and nerves. Smith was treated for a puncture wound at an outpatient clinic of the local hospital, and discharged that day.

The statement the offender gave the police can be summarised as follows:

Robert Brown had been working at the garage for nearly eight months when the offence occurred. Stuart Smith was the garage owner, who had apparently started "picking on him" two months after Brown started working at the garage. Brown said Smith had been making comments about the quality of his (Brown's) work and his reputation as a troublemaker as often as twice a day, for nearly six months. Brown said that normally he would ignore Smith's comments, but was becoming increasingly angry at Smith as the weeks continued, and the comments did not stop. Brown admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Brown he did not earn enough money to provide for the family and accused him of spending too much of their money on alcohol.

In addition to this, Brown said he had been having a bad day at work. On the first job of the day Brown accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Smith). This led to Smith reprimanding Brown for the incident, forcing Brown to apologise to the customer. When lunch time came, Brown discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt angry again. Instead of eating lunch, Brown drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Brown said he was drinking to help control the high level of tension and anger he was feeling by this time.

Around 3.30pm, Smith started making comments about Brown's work skills and how bad they were. The offender says this was the "last straw". Brown stewed over Smith's comments for almost half an hour, then took a screwdriver from the bench and confronted Smith in his office just before 4pm. After shouting at each other for a few minutes, Brown lunged at Smith with the screwdriver, saying he "wanted to hurt him, to stop him talking to me in a bad way". Smith managed to twist away, and the screwdriver landed in the top of his back. Brown then realised what he'd done, and

immediately applied first aid. He took Smith to the hospital and stayed with him while he was being seen. Brown confessed to police at the hospital what had happened, and wrote a statement that day at the police station. Brown admitted thinking about attacking Smith before, but said he didn't think he'd ever go through with it. Brown told the police that he did not know why he'd acted as he did, and that he wished it had never happened.

The following information was also submitted to the Court:

Stuart Smith is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Smith had worked hard to be in a position where he could buy and run his own garage. He takes pride in the efficiency of the garage, and for the high quality of work his mechanics do. He says he gets along well with most people and always has.

Smith returned to work within a week and the wound repaired itself with no complications. He did not suffer any loss of income, as one of the senior mechanics took over while he was away. He said that though the wound was painful for a while, he valued the week off as a way of spending time with his wife and children. His social life has been unaffected, and Smith was able to resume his weekly games of sport after two weeks rest. He was able to resume work without fear and has not had any nightmares. Hence, the defence submitted to the Court that Smith was not suffering from emotional or mental effects of the offence, and that the damage was minor.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Brown has a previous criminal record consisting of three convictions for common assault and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds. Brown has participated in alcohol counselling since the offence and has accepted that he has drinking problem. He has now been sober for four months. Brown has offered to pay for Smith's treatment costs, and has asked to be able to apologise face to face to Smith. He has also offered his services in any other way Smith or his family feel they need, as he feels very bad about the offence. Brown's rehabilitation prospects are assessed as moderate. He has never stabbed someone before, but has been in trouble with fist-fighting in the past. He has a chequered employment history, often being fired for aggression to co-workers or customers, or for drinking alcohol while working. The longest Brown has held down a job is one year.

Brown has been married for 14 years. His wife says she tried to be supportive of her husband (Brown) over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Brown's alcohol problem tended to get in the way, using money that could be put to better use. She admitted that she and Brown used to fight quite a bit about his drinking and frequent job changes, but is proud of her husband for staying sober for the last 4 months.

Brown was brought up in a family that used violence and alcohol to solve problems, and he does not seem aware of other ways of dealing with stress or tension. He says his childhood was littered with beatings and he learned that was the only way to survive. He no longer has contact with his parents or his brother, because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family. Brown said he would like to take part in an anger and violence management program, to help him learn new ways of dealing with stress and tension.

Case 3: Person crime, high harm, high remorse

On Tuesday, 13th May 1997, Robert Brown pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 4pm on Friday, 22nd November 1996, Robert Brown stabbed his supervisor, Stuart Smith, in the upper back with a screwdriver. Robert Brown is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Stuart Smith, was Brown's supervisor and owner of the garage where the offender worked. Smith is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and had been managing it since then. The screwdriver used to stab Smith was from the garage in which they were both working. The screwdriver severed Smith's spinal cord and he is now a paraplegic. He spent three weeks in hospital recovering and four weeks in a rehabilitation clinic attempting to come to terms with his new life. Smith sold the garage and has been unemployed since the offence.

The statement the offender gave the police can be summarised as follows:

Robert Brown had been working at the garage for nearly eight months when the offence occurred. Stuart Smith was the garage owner, who had apparently started

“picking on him” two months after Brown started working at the garage. Brown said Smith had been making comments about the quality of his (Brown’s) work and his reputation as a troublemaker as often as twice a day, for nearly six months. Brown said that normally he would ignore Smith’s comments, but was becoming increasingly angry at Smith as the weeks continued, and the comments did not stop. Brown admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he’d had a fight with his wife that morning. She had told Brown he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Brown said he had been having a bad day at work. On the first job of the day Brown accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Smith). This led to Smith reprimanding Brown for the incident, forcing Brown to apologise to the customer. When lunch time came, Brown discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt angry again. Instead of eating lunch, Brown drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Brown said he was drinking to help control the high level of tension and anger he was feeling by this time.

Around 3.30pm, Smith started making comments about Brown’s work skills and how bad they were. The offender says this was the “last straw”. Brown stewed over Smith’s comments for almost half an hour, then took a screwdriver from the bench and confronted Smith in his office just before 4pm. After shouting at each other for a few minutes, Brown lunged at Smith with the screwdriver, saying he “wanted to hurt him, to stop him talking to me that way”. Smith managed to twist away, and the screwdriver landed in the top of his back. Brown then realised what he’d done, and immediately applied first aid. He called an ambulance and stayed with Smith until the ambulance came. Brown then went with the police and fully confessed. Brown admitted thinking about attacking Smith before, but said that he didn’t think he’d ever go through with it. Brown told the police that he did not know why he’d acted as he did, and that he wished it had never happened.

The prosecution submitted a statement by the victim. This statement included the following information:

Stuart Smith is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He had been happily married for 12 years and valued his

family life above all else. Smith had worked hard to be in a position where he could buy and run his own garage. He took pride in the efficiency of the garage, and for the high quality of work his mechanics did. He says he used to get along well with most people.

The screwdriver severed Smith's spinal cord and he is now a paraplegic. He can no longer walk and is confined to a wheelchair. Smith can no longer work as a mechanic and this has been devastating to him. Being a mechanic was the only skill Smith had, he enjoyed his job immensely and saw his work as part of his identity. Smith sold the garage because he could not face returning to it, and he now feels that he can no longer support his family. This is very hard for him to accept, as Smith used to take a lot of pride in working hard so his wife could remain home with the children. The only income Smith now receives is from a disability pension, and he has been trying to pay off his medical bills with his life savings which are rapidly dwindling. In addition, the house has needed to be modified to fit the wheelchair so Smith can remain as independent as possible. Hence, Smith is in dire financial trouble as a result of the offence.

Smith has had a very hard time coming to terms with losing the use of his legs. He used to play sport regularly and has had to quit membership of all clubs. He has had continuing nightmares about the stabbing and does not sleep well at night. He has not been back to the garage since the offence as it reminds him of the stabbing. Smith spends his days sitting and watching the television. His wife and family are troubled by the change in his personality. Smith no longer spends time playing with the children, and his sons are starting to show difficulties in their schoolwork. His wife no longer spends as much time at home with the children, as she has been forced out to work to support the family. In general, Smith has shown no interest in life since the stabbing, and can't afford counselling to work through the changes his family is going through. He is depressed, and will not venture out of the house with his wife or family for an outing. He says that the stabbing has "ruined my life" and that he feels very angry towards Brown.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Brown has a previous criminal record consisting of three convictions for common assault and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds which were completed successfully. Brown has participated in alcohol counselling since the offence and has accepted that he has drinking problem.

He has now been sober for four months. Brown has offered to make some payment for Smith's treatment costs, and has asked to be able to apologise face to face to Smith. He has also offered his services in any other way Smith or his family feel they need. Brown's rehabilitation prospects are assessed as moderate. He has never stabbed someone before, but has been in trouble with fist-fighting in the past. He has a chequered employment history, often being fired for aggression to co-workers or customers, or for drinking alcohol while working. The longest Brown has held down a job is one year.

Brown has been married for 14 years. His wife says she tried to be supportive of her husband (Brown) over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Brown's alcohol problem tended to get in the way, using money that could be put to better use. She admitted that she and Brown used to fight quite a bit about his drinking and frequent job changes, but is proud of her husband for staying sober for the last 4 months.

Brown was brought up in a family that used violence and alcohol to solve problems, and he does not seem aware of other ways of dealing with stress and tension. He says his childhood was littered with beatings and he learned that was the only way to survive. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but now spends most of his time trying to earn money for the family. Brown says he would like to take part in an anger and violence management program, to help him learn new ways of dealing with stress and tension.

Case 4: Person crime, high harm, low remorse

On Tuesday, 13th May 1997, Robert Brown pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 4pm on Friday, 22nd November 1996, Robert Brown stabbed his supervisor, Stuart Smith, in the upper back with a screwdriver. Robert Brown is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Stuart Smith, was Brown's supervisor and owner of the garage where the offender worked. Smith is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and had been

managing it since then. The screwdriver used to stab Smith was from the garage in which they were both working. The screwdriver severed Smith's spinal cord and he is now a paraplegic. He spent three weeks in hospital recovering and four weeks in a rehabilitation clinic attempting to come to terms with his new life. Smith sold the garage and has been unemployed since the offence.

The statement the offender gave the police can be summarised as follows:

Robert Brown had been working at the garage for nearly eight months when the offence occurred. Stuart Smith was the garage owner, who had apparently started "picking on him" two months after Brown started working at the garage. Brown said Smith had been making comments about the quality of his (Brown's) work and his reputation as a troublemaker as often as twice a day, for nearly six months. Brown said that normally he would ignore Smith's comments, but was becoming increasingly angry at Smith as the weeks continued, and the comments did not stop. Brown admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Brown he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Brown said he had been having a bad day at work. On the first job of the day Brown accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Smith). This led to Smith reprimanding Brown for the incident, forcing Brown to apologise to the customer. When lunch time came, Brown discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt angry again. Instead of eating lunch, Brown drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Brown said he was drinking to help control the high level of tension and anger he was feeling by this time.

Around 3.30pm, Smith started making comments about Brown's work skills and how bad they were. Brown said this was the "last straw", and he decided to "teach Smith a lesson". Brown stewed over Smith's comments for almost half an hour, then took a screwdriver from the bench and confronted Smith in his office just before 4pm. After shouting at each other for a few minutes, Brown lunged at Smith with the screwdriver, saying he "wanted to hurt him, to show him what it is like". Smith managed to twist away, and the screwdriver landed in the top of his back. Brown then grabbed his toolbox and ran to his car, driving off and leaving a bleeding Smith to find

help for himself. When questioned by the police, Brown initially denied the charges, but eventually pleaded guilty and made a full statement.

Brown admitted thinking about attacking Smith before, but said he didn't think he'd ever go through with it. Brown told the police that the stabbing made him feel much better to have "taught the bastard not to mess with me", and "straight away I felt the tension and stress go away". He added that "the guy (Smith) deserved it for annoying me" and that he would do it again if he was in a similar situation.

The prosecution submitted a statement by the victim. This statement included the following information:

Stuart Smith is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He had been happily married for 12 years and valued his family life above all else. Smith had worked hard to be in a position where he could buy and run his own garage. He took pride in the efficiency of the garage, and for the high quality of work his mechanics did. He says he used to get along well with most people.

The screwdriver severed Smith's spinal cord and he is now a paraplegic. He can no longer walk and is confined to a wheelchair. Smith can no longer work as a mechanic and this has been devastating to him. Being a mechanic was the only skill Smith had, he enjoyed his job immensely and saw his work as part of his identity. Smith sold the garage because he could not face returning to it, and he now feels that he can no longer support his family. This is very hard for him to accept, as Smith used to take a lot of pride in working hard so his wife could remain home with the children. The only income Smith now receives is from a disability pension, and he has been trying to pay off his medical bills with his life savings which are rapidly dwindling. In addition, the house has needed to be modified to fit the wheelchair so Smith can remain as independent as possible. Hence, Smith is in dire financial trouble as a result of the offence.

Smith has had a very hard time coming to terms with losing the use of his legs. He used to play sport regularly and has had to quit membership of all clubs. He has had continuing nightmares about the stabbing, and does not sleep well at night. He has not been back to the garage since the stabbing, and finds it very difficult to continue the friendship with the owner, as it reminds him of the stabbing. Smith spends his days sitting and watching the television. His wife and children are troubled by the change in his personality. Smith no longer spends time playing with the children, and his sons are starting to show difficulties in their schoolwork. His wife no longer spends as much

time at home with the children, as she has been forced out to work to support the family. In general, Smith has shown no interest in life since the stabbing, and can't afford counselling to work through the changes his family is going through. He is depressed, and will not venture out of the house with his wife or family for an outing. He says that the stabbing has "ruined my life" and that he feels very angry towards Brown.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Brown has a previous criminal record consisting of three convictions for common assault and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds which were completed successfully. Brown does not wish to do anything to make up for the stabbing, and has continued to drink alcohol to excess.

Brown is now unemployed and says he does not want to take part in any therapy programs to address either his anger / violence problem or his alcohol misuse. Brown's rehabilitation prospects are assessed as moderate. He has never stabbed someone before, but has been in trouble with fist-fighting in the past. He has a chequered employment history, often being fired for aggression to co-workers or customers or for drinking alcohol while working. The longest Brown has held down a job is one year.

Brown has been married for 14 years. His wife says she tried to be supportive of her husband (Brown) over the years, but the relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Brown's alcohol problem tends to get in the way, using money that could be put to better use. She admitted that she and Brown fight quite a bit about his drinking and frequent job changes.

Brown was brought up in a family that used violence and alcohol to solve problems, and he does not seem aware of any other ways of dealing with stress or tension. He says his childhood was littered with beatings and he learned that was the only way to survive. He no longer has contact with his parents or his brother because of a family disagreement. Brown does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family.

Case 5: Property crime, low harm, low remorse

On Tuesday, 13th May 1997, Michael Adams pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 8pm on Friday, 22nd November 1996, Michael Adams broke into the safe of the garage where he worked. Adams is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Steven Burns, was Adams's supervisor and owner of the garage where the offender worked. Burns is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. Adams emptied the safe, taking about \$2500 in cash. No damage was done to the office or building. Burns discovered the break-in the following morning, and reported it to the police. The money was recovered through insurance. Adams was fired as a result of the offence.

The statement Adams gave the police can be summarised as follows:

Michael Adams had been working at the garage for nearly eight months when the offence occurred. Steven Burns was the garage owner, who had apparently starting "picking on him" two months after Adams started working at the garage. Adams said Burns had been making comments about the quality of his (Adams's) work and his reputation as a big drinker as often as twice a day, for nearly six months. Adams said that normally he would ignore Burns's comments, but was becoming increasingly upset at Burns as the weeks continued, and the comments did not stop. Adams admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Adams he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Adams said he had been having a bad day at work. On the first job of the day Adams accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Burns). This led to Burns reprimanding Adams for the incident, forcing Adams to apologise to the customer. When lunch time came, Adams discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt upset and depressed again. Instead of eating lunch, Adams drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Adams said he was drinking to help control the high levels of stress he was feeling by this time.

Around 4pm, Burns started making more comments about Adams's work skills and how bad they were. Adams said this was the "last straw", and he took his toolbox and left the garage, heading for the local pub. He drank beer steadily for an hour, then was joined by a workmate, who drank with Adams until 7pm. Adams did not eat any dinner, and stewed over Burns's comments while drinking. He ran out of money at 7.30pm, and spent the next half an hour planning how to get more. He knew he couldn't ask his wife for money, but he wanted to keep drinking. Adams decided to break into the safe in the garage, which would "teach Burns a lesson" as well as provide more drinking money. So he walked back to the garage, used his key to enter the building and broke into the safe with a crowbar. The garage had an alarm system, but Burns had forgotten to turn it on. Adams took all the money in the safe (\$2500) and left the garage, locking the building behind him. He then walked to a different bar, and resumed drinking. He states that he was in a much better mood after the break-in, and was having fun at the second pub, buying drinks for people around him.

When questioned by the police, Adams initially denied the charges, but eventually pleaded guilty and made a full statement. Adams told police that "the guy (Burns) deserved it for annoying me", and that he would do it again if in a similar situation. Adams admitted thinking about robbing Burns and the garage before, but said he didn't think he'd ever go through with it. The offender told the police that the stealing made him feel much better to have "taught him (Burns) a lesson", and "straight away I felt the tension and stress go away".

The following information was also submitted to the Court:

Steven Burns is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Burns had worked hard to be in a position where he could buy and run his own garage. He takes pride in the efficiency of the garage, and for the high quality of work his mechanics do. He says he gets along well with most people and always has. Burns is still happily running his garage. He has not seen Adams since the offence, and says that instead of being bad for morale, the incident has helped to bring the other mechanics closer together in loyalty to the garage. It was submitted to the court that Burns's life has been largely unaffected by the offence.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Adams has a previous criminal record consisting of three convictions for petty theft and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds, which were completed successfully. Adams does not wish to do anything to make up for the robbery, saying he spent the money and that Burns deserved it anyway. He has continued to drink alcohol to excess. Adams is now unemployed and says he does not want to take part in any therapy programs to address his alcohol problem. Adams's rehabilitation prospects are assessed as moderate. He is not in the habit of breaking and entering premises to steal, but has shoplifted a few times. He has a chequered employment history, often being fired for drinking alcohol while working and making errors. The longest Adams has held down a job is one year.

Adams has been married for 14 years. His wife says she tried to be supportive of her husband (Adams) over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though Adams tries very hard to provide for their 13 year old son and her, Adams's alcohol problem tends to get in the way, using money that could be put to better use. She admitted that she and Adams fight quite a bit about his drinking and frequent job changes.

Adams was brought up in a family that used stealing and alcohol to solve problems, and he does not seem aware of any other ways of dealing with problems. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family.

Case 6: Property crime, low harm, high remorse

On Tuesday, 13th May 1997, Michael Adams pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 8pm on Friday, 22nd November 1996, Michael Adams broke into the safe of the garage where he worked. Adams is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Steven Burns, was Adams's supervisor and the owner of the garage where the offender worked. Burns is 35 years old and has worked as mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. Adams emptied the safe, taking about \$2500 in cash. No damage was done to the office or

building. Burns discovered the break-in the following morning, and reported it to the police. The money was recovered through insurance. Adams was fired as a result of the offence.

The statement Adams gave the police can be summarised as follows:

Michael Adams had been working at the garage for nearly eight months when the offence occurred. Steven Burns was the garage owner, who had apparently started “picking on him” two months after Adams started working at the garage. Adams said Burns had been making comments about the quality of his (Adams’s) work and his reputation as a big drinker as often as twice a day, for nearly six months. Adams said that normally he would ignore Burns’s comments, but was becoming increasingly upset at Burns as the weeks continued, and the comments did not stop. Adams admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he’d had a fight with his wife that morning. She had told Adams he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Adams said he had been having a bad day at work. On the first job of the day Adams accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Burns). This led to Burns reprimanding Adams for the incident, forcing Adams to apologise to the customer. When lunch time came, Adams discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt upset and depressed again. Instead of eating lunch, Adams drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Adams said he was drinking to help control the high levels of stress he was feeling by this time.

Around 4pm, Burns started making more comments about Adams’s work skills and how bad they were. Adams said this was the “last straw”, and he took his toolbox and left the garage, heading for the local pub. He drank beer steadily for an hour, then was joined by a workmate, who drank with Adams until 7pm. Adams did not eat any dinner, and stewed over Burns’s comments while drinking. He ran out of money at 7.30pm, and spent the next half an hour planning how to get more. He knew he couldn’t ask his wife for money, but he wanted to keep drinking. Adams decided to break into the safe in the garage, which would “teach Burns a lesson” as well as provide more drinking money. So he walked back to the garage, used his key to enter the building and broke into the safe with a crowbar. The garage had an alarm system, but Burns had

forgotten to turn it on. Adams took all the money in the safe (\$2500) and left the garage, locking the building behind him.

While walking to a different bar to resume drinking, Adams thought of the reaction of his wife and son to his actions, and decided to turn himself in. He went to the nearest police station and confessed, making a full statement. Adams admitted thinking about robbing Burns and the garage before, but said he didn't think he'd ever go through with it. He told the police he doesn't know why he'd acted as he did, and that he wished it had never happened.

The following information was also submitted to the Court:

Steven Burns is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Burns had worked hard to be in a position where he could buy and run his own garage. He takes pride in the efficiency of the garage, and for the high quality of work his mechanics do. He says he gets along well with most people and always has. Burns is still happily running his garage. He has not seen Adams since the offence, and says that instead of being bad for morale, the incident has helped to bring the other mechanics closer together in loyalty to the garage. It was submitted to the court that Burns's life has been largely unaffected by the offence.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Adams has a previous criminal record consisting of three convictions for petty theft and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds, which were completed successfully. Adams has participated in alcohol counselling since the offence and has accepted that he has a drinking problem. He has now been sober for four months. Adams has offered to repay the money he stole, and has been asked to be able to apologise face to face to Burns. He has also offered his services in any other way to Burns (such as free labour), in order to make up for the offence which he feels very bad about. Adams's rehabilitation prospects are assessed as moderate. He is not in the habit of breaking and entering premises to steal, but has shoplifted a few times. He has a chequered employment history, often being fired for drinking alcohol while working and making errors. The longest Adams has held down a job is one year.

Adams has been married for 14 years. His wife says she tried to be supportive of her husband (Adams) over the years, but the relationship had deteriorated in the months

before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Adams's alcohol problem tended to get in the way, using money that could be put to better use. She admitted that she and Adams used to fight quite a bit about his drinking and frequent job changes, but is proud of her husband for staying sober for the last 4 months.

Adams was brought up in a family that used stealing and alcohol to solve problems, and he does not seem aware of any other ways of dealing with problems. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family. Adams said he would like to take part in some counselling program to help him learn new ways of dealing with stress, apart from drinking alcohol.

Case 7: Property crime. high harm, high remorse

On Tuesday, 13th May 1997, Michael Adams pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 8pm on Friday, 22nd November 1996, Michael Adams broke into the safe of the garage where he worked. Adams is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school. The victim, Steven Burns, was Adams's supervisor and owner of the garage where the offender worked. Burns is 35 years old and has worked as a mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. Adams emptied the safe, taking about \$2500 in cash. About \$10,000 worth of damage was done to the office door, safe, windows of the garage and some of the cars waiting to be serviced. The insurance company refused to cover the damage to the building and cars because the alarm was not turned on. As a result, Burns had to sell the business and go into debt to pay the damage bills. He is still unemployed.

The statement Adams gave the police can be summarised as follows:

Michael Adams had been working at the garage for nearly eight months when the offence occurred. Steven Burns was the garage owner, who had apparently started "picking on him" two months after Adams started working at the garage. Adams said Burns had been making comments about the quality of his (Adams's) work and his reputation as a big drinker as often as twice a day, for nearly six months. Adams said

that normally he would ignore Burns's comments, but was becoming increasingly upset at Burns as the weeks continued, and the comments did not stop. Adams admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Adams he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Adams said he had been having a bad day at work. On the first job of the day Adams accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Burns). This led to Burns reprimanding Adams for the incident, forcing Adams to apologise to the customer. When lunch time came, Adams discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt upset and depressed again. Instead of eating lunch, Adams drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Adams said he was drinking to help control the high levels of stress he was feeling by this time.

Around 4pm, Burns started making more comments about Adams's work skills and how bad they were. Adams said this was the "last straw", and he took his toolbox and left the garage, heading for the local pub. He drank beer steadily for an hour, then was joined by a workmate, who drank with Adams until 7pm. Adams did not eat any dinner, and stewed over Burns's comments while drinking. He ran out of money at 7.30pm, and spent the next half an hour planning how to get more. He knew he couldn't ask his wife for money, but he wanted to keep drinking. Adams decided to break into the safe in the garage, which would "teach Burns a lesson" as well as provide more drinking money.

Adams walked back to the garage, used his key to enter the building and broke into the office and the safe with a crowbar. This caused extensive damage to the office door and the safe. The garage had an alarm system, but Burns had forgotten to turn it on. Adams took all the money in the safe (\$2500). Adams told police that while breaking into the safe he became angry at Burns for "picking on him", and after he took the money he went into a frenzy, smashing all the windows in the garage. He also scratched and smashed windows of cars waiting to be serviced. Overall, Adams caused about \$10,000 worth of damage to the garage and the cars in about 15 minutes. He then stood outside the garage, calming down. At about 8.30pm, he looked at the damage he had inflicted and realised with horror what he had done. He thought of the reaction of his

wife and son to his actions, and decided to turn himself in to the police. Adams went to the nearest police station and confessed to the offence, making a full statement. Adams admitted thinking about robbing Burns and the garage before, but said he didn't think he'd ever go through with it. He told the police he doesn't know why he'd acted as he did, and that he wished it had never happened.

The prosecution submitted a statement by the victim, including the following information:

Steven Burns is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Burns had worked hard to be in a position where he could buy and run his own garage. He took pride in the efficiency of the garage, and for the high quality of work his mechanics did. He says he gets along well with most people and always has.

Burns's quality of life has been greatly affected by the offence. He lost the garage and has been unemployed and in debt since the offence. Hence, the offence has meant that Burns and his family are in a lot of financial trouble. Losing the garage was devastating to Burns. Being a mechanic was the only skill Burns had, he enjoyed his job immensely and saw his work as part of his identity. Burns feels that he can no longer support his family. This is very hard for him to accept, as Burns used to take a lot of pride in working hard so his wife could remain home with the children. Burns has had a very hard time coming to terms with the changes in his life that the offence has caused. He is depressed, and spends most of his time sitting at home watching television. He is not sleeping well, and spends a lot of time worrying about the future and about the family's finances. He feels personally responsible for the offence because he didn't turn the alarm on, and is suffering a lot of guilt. He has lost all confidence in himself and his abilities, and some days does not even get out of bed to look for work.

Burns's wife and children are troubled by the change in his personality. Burns no longer spends time playing with the children and his sons are starting to show difficulties in their schoolwork. His wife no longer spends much time at home with the children, as she has been forced out to work to support the family. In general, Burns has lost interest in life since losing his job, and can't afford counselling to help him through the guilt and feelings of failure.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Adams has a previous criminal record consisting of three convictions for petty theft and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds, which were completed successfully. Adams has participated in alcohol counselling since the offence and has accepted that he has a drinking problem. He has now been sober for four months.

. Adams has offered to repay the money he stole, and has been asked to be able to apologise face to face to Burns. He has also offered his services in any other way to Burns (such as free labour), in order to make up for the offence which he feels very bad about. Adams's rehabilitation prospects are assessed as moderate. He is not in the habit of breaking and entering premises to steal, but has shoplifted a few times. He has a chequered employment history, often being fired for drinking alcohol while working and making errors. The longest Adams has held down a job is one year.

Adams has been married for 14 years. His wife says she tried to be supportive of her husband (Adams) over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Adams's alcohol problem tended to get in the way, using money that could be put to better use. She admitted that she and Adams used to fight quite a bit about his drinking and frequent job changes, but is proud of her husband for staying sober for the last 4 months.

Adams was brought up in a family that used stealing and alcohol to solve problems, and he does not seem aware of any other ways of dealing with problems. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family. Adams said he would like to take part in some counselling program to help him learn new ways of dealing with stress, apart from drinking alcohol.

Case 8: Property crime, high harm, low remorse

On Tuesday, 13th May 1997, Michael Adams pleaded guilty to the following offence, and today he is to be sentenced by you, based on the facts below.

At 8pm on Friday, 22nd November 1996, Michael Adams broke into the safe of the garage where he worked. Adams is a 34 year old man who has worked on and off as a mechanic for 10 years. He is married and has a 13 year old son who is in high school.

The victim, Steven Burns, was Adams's supervisor and owner of the garage where the offender worked. Burns is 35 years old and has worked as mechanic for 15 years. Four years ago he bought his own garage, and has been managing it since then. Adams emptied the safe, taking about \$2500 in cash. About \$10,000 worth of damage was done to the office door, safe, windows of the garage and some of the cars waiting to be serviced. The insurance company refused to cover the damage to the building and cars because the alarm was not turned on. As a result, Burns had to sell the business and go into debt to pay the damage bills. He is still unemployed.

The statement Adams gave the police can be summarised as follows:

Michael Adams had been working at the garage for nearly eight months when the offence occurred. Steven Burns was the garage owner, who had apparently started "picking on him" two months after Adams started working at the garage. Adams said Burns had been making comments about the quality of his (Adams's) work and his reputation as a big drinker as often as twice a day, for nearly six months. Adams said that normally he would ignore Burns's comments, but was becoming increasingly upset at Burns as the weeks continued, and the comments did not stop. Adams admitted he was feeling a lot more stressed than usual on the day of the offence, partly because he'd had a fight with his wife that morning. She had told Adams he did not earn enough money to provide for the family, and accused him of spending too much of their money on alcohol.

In addition to this, Adams said he had been having a bad day at work. On the first job of the day Adams accidentally scratched the paint of the car while working on it. When the customer picked up his car, he was very angry about it and complained to the owner (Burns). This led to Burns reprimanding Adams for the incident, forcing Adams to apologise to the customer. When lunch time came, Adams discovered that his wife had not made his lunch. This reminded him of their fight that morning and he felt upset and depressed again. Instead of eating lunch, Adams drank whisky from his hip flask, then continued to drink from the flask during the afternoon. Adams said he was drinking to help control the high levels of stress he was feeling by this time.

Around 4pm, Burns started making more comments about Adams's work skills and how bad they were. Adams said this was the "last straw", and he took his toolbox and left the garage, heading for the local pub. He drank beer steadily for an hour, then was joined by a workmate, who drank with Adams until 7pm. Adams did not eat any dinner, and stewed over Burns's comments while drinking. He ran out of money at

7.30pm, and spent the next half an hour planning how to get more. He knew he couldn't ask his wife for money, but he wanted to keep drinking. Adams decided to break into the safe in the garage, which would "teach Burns a lesson" as well as provide more drinking money.

Adams walked back to the garage, used his key to enter the building and broke into the office and the safe with a crowbar. This caused extensive damage to the office door and the safe. The garage had an alarm system, but Burns had forgotten to turn it on. Adams took all the money in the safe (\$2500).

Adams told police that while breaking into the safe he became angry at Burns for "picking on him", so after he took the money he went into a frenzy, smashing all the windows in the garage. He also scratched and smashed windows of cars waiting to be serviced. Overall, Adams caused about \$10,000 worth of damage to the garage and the cars in about 15 minutes. He then left the garage and walked to a different bar to resume drinking. He stated that he was in a much better mood after the break-in, and was having fun at the second pub, buying drinks for people around him.

When questioned by the police, Adams initially denied the charges, but eventually pleaded guilty and made a full statement. Adams told police that "the guy (Burns) deserved it for annoying me", and that he would do it again if in a similar situation. Adams admitted thinking about robbing Burns and the garage before, but said he didn't think he'd ever go through with it. The offender told the police that the stealing made him feel much better to have "taught him (Burns) a lesson", and "straight away I felt the tension and stress go away".

The prosecution submitted a statement by the victim, including the following information:

Stuart Burns is 35 years old, married with two sons (aged 6 years and 10 years) and a daughter (age 8 years). He has been happily married for 12 years and values his family life above all else. Burns had worked hard to be in a position where he could buy and run his own garage. He took pride in the efficiency of the garage, and for the high quality of work his mechanics did. He says he gets along well with most people and always has.

Burns's quality of life has been greatly affected by the offence. Burns lost the garage, and he has been unemployed and in debt since the offence. Hence, the offence has meant that Burns and his family are in a lot of financial trouble. Losing the garage was devastating to Burns. Being a mechanic was the only skill Burns had, he enjoyed his

job immensely and saw his work as part of his identity. Burns feels that he can no longer support his family. This is very hard for him to accept, as Burns used to take a lot of pride in working hard so his wife could remain home with the children. Burns has had a very hard time coming to terms with the changes in his life that the offence has caused. He is depressed, and spends most of his time sitting at home watching television. He is not sleeping well, and spends a lot of time worrying about the future and about the family's finances. He feels personally responsible for the offence because he didn't turn the alarm on, and is suffering a lot of guilt. He has lost all confidence in himself and his abilities, and some days does not even get out of bed to look for work.

Burns's wife and children are troubled by the change in his personality. Burns no longer spends time playing with the children and his sons are starting to show difficulties in their schoolwork. His wife no longer spends much time at home with the children, as she has been forced out to work to support the family. In general, Burns has lost interest in life since losing his job, and can't afford counselling to help him through the guilt and feelings of failure.

The final piece of information presented to the Court was a pre-sentence report on the offender. The main points follow:

Robert Adams has a previous criminal record consisting of three convictions for petty theft and two for being drunk and disorderly. These were dealt with by fines and good behaviour bonds, which were completed successfully.

Adams does not wish to do anything to make up for the robbery and the damage, saying he spent the money and that Burns deserved it anyway. He has continued to drink alcohol to excess. Adams is now unemployed and says he does not want to take part in any therapy programs to address his alcohol problem. Adams's rehabilitation prospects are assessed as moderate. He is not in the habit of breaking and entering premises to steal, but has shoplifted a few times. He has a chequered employment history, often being fired for drinking alcohol while working and making errors. The longest Adams has held down a job is one year.

Adams has been married for 14 years. His wife says she tried to be supportive of her husband over the years, but their relationship had deteriorated in the months before the offence. She was sick of the constant job changes and lack of money, and did not know how much longer she would stay in the marriage. She stated that though he tries very hard to provide for their 13 year old son and her, Adams's alcohol problem tends to

get in the way, using money that could be put to better use. She admitted that she and Adams fight quite a bit about his drinking and frequent job changes.

Adams was brought up in a family that used stealing and alcohol to solve problems, and he does not seem aware of any other ways of dealing with problems. He no longer has contact with his parents or his brother because of a family disagreement. He does not play sport or have any hobbies, but spends most of his time either drinking or trying to earn money for the family.

Appendix C

Means and Standard Deviations of Influence of Sentencing Goals on Sentence Choice for Male Participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Property crime							
Deterrence							
Mean	2.273	3.636	2.955	2.545	2.182	2.364	2.659
SD	1.679	2.203	2.035	1.635	.982	1.329	1.725
<u>n</u>	11	11	22	11	11	22	44
Incapacitation							
Mean	3.091	2.636	2.864	2.273	2.364	2.318	2.591
SD	2.023	1.963	1.959	1.555	1.433	1.460	1.730
<u>n</u>	11	11	22	11	11	22	44
Rehabilitation							
Mean	3.727	4.455	4.091	4.364	3.727	4.045	4.068
SD	2.195	1.916	2.045	1.690	2.453	2.081	2.039
<u>n</u>	11	11	22	11	11	22	44
Retribution							
Mean	2.727	2.273	2.500	2.909	2.818	2.864	2.682
SD	1.794	1.902	1.819	1.578	2.089	1.807	1.801
<u>n</u>	11	11	22	11	11	22	44

Appendix C ctd - Male participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Person crime							
Deterrence							
Mean	2.214	2.500	2.357	2.429	2.769	2.593	2.473
SD	1.717	2.345	2.022	1.651	1.641	1.623	1.824
<u>n</u>	14	14	28	14	13	27	55
Incapacitation							
Mean	3.071	3.2147	3.143	3.429	4.077	3.741	3.436
SD	1.817	2.007	1.880	1.910	1.553	1.745	1.823
<u>n</u>	14	14	28	14	13	27	55
Rehabilitation							
Mean	3.929	4.714	4.321	3.143	4.077	3.593	3.964
SD	2.235	1.589	1.945	1.703	1.847	1.803	1.895
<u>n</u>	14	14	28	14	13	27	55
Retribution							
Mean	4.071	3.143	3.607	3.857	3.615	3.741	3.673
SD	1.817	1.834	1.853	1.610	1.710	1.631	1.733
<u>n</u>	14	14	28	14	13	27	55

Appendix C ctd. - Male participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Total							
Deterrence							
Mean	2.240	3.000	2.620	2.480	2.500	2.490	2.556
SD	1.665	2.309	2.029	1.610	1.383	1.488	1.774
<u>n</u>	25	25	50	25	24	49	99
Incapacitation							
Mean	3.080	2.960	3.020	2.920	3.292	3.102	3.061
SD	1.869	1.968	1.900	1.824	1.706	1.759	1.823
<u>n</u>	25	25	50	25	24	49	99
Rehabilitation							
Mean	3.840	4.600	4.220	3.680	3.917	3.796	4.010
SD	2.173	1.708	1.972	1.773	2.104	1.925	1.951
<u>n</u>	25	25	50	25	24	49	99
Retribution							
Mean	3.480	2.760	3.120	3.440	3.250	3.347	3.232
SD	1.896	1.877	1.902	1.635	1.894	1.751	1.823
<u>n</u>	25	25	50	25	24	49	99

Note. The ratings were made on a seven point scale (0 = no influence, 6 = total influence). SD = Standard Deviation. n = number of participants.

Appendix D

Means and Standard Deviations of Influence of Sentencing Goals on Sentence Choice for Female Participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Property crime							
Deterrence							
Mean	3.300	2.636	2.952	3.273	1.583	2.391	2.659
SD	2.312	2.111	2.179	1.348	1.240	1.530	1.867
N	10	11	21	11	12	23	44
Incapacitation							
Mean	2.800	3.364	3.095	3.727	3.583	3.652	3.386
SD	1.619	2.292	1.972	1.104	2.021	1.613	1.794
N	10	11	21	11	12	23	44
Rehabilitation							
Mean	4.500	5.182	4.857	3.818	4.583	4.217	4.523
SD	1.581	1.834	1.711	1.079	1.782	1.506	1.621
N	10	11	21	11	12	23	44
Retribution							
Mean	3.900	2.636	3.238	4.000	3.750	3.870	3.568
SD	1.969	1.912	1.998	1.342	.866	1.100	1.605
N	10	11	21	11	12	23	44

Appendix D ctd. - Female participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Person crime							
Deterrence							
Mean	1.455	2.727	2.091	3.857	3.143	3.500	2.880
SD	2.018	2.054	2.091	2.107	2.107	2.099	2.191
<u>n</u>	11	11	22	14	14	28	50
Incapacitation							
Mean	3.545	2.545	3.045	4.071	2.929	3.500	3.300
SD	1.753	2.162	1.988	2.269	2.464	2.396	2.215
<u>n</u>	11	11	22	14	14	28	50
Rehabilitation							
Mean	3.818	5.000	4.409	5.214	4.214	4.714	4.580
SD	2.136	1.549	1.919	.975	1.672	1.436	1.655
<u>n</u>	11	11	22	14	14	28	50
Retribution							
Mean	3.364	4.091	3.727	4.071	2.929	3.500	3.600
SD	2.111	1.640	1.882	1.859	1.639	1.816	1.829
<u>n</u>	11	11	22	14	14	28	50

Appendix D ctd. - Female participants

	Low harm			High harm			Table Total
	Level of remorse			Level of remorse			
	Low	High	Total	Low	High	Total	
Total							
Deterrence							
Mean	2.333	2.682	2.512	3.600	2.423	3.000	2.777
SD	2.309	2.033	2.153	1.803	1.901	1.929	2.038
<u>n</u>	21	22	43	25	26	51	94
Incapacitation							
Mean	3.190	2.955	3.070	3.920	3.231	3.569	3.340
SD	1.692	2.214	1.957	1.824	2.250	2.062	2.019
<u>n</u>	21	22	43	25	26	51	94
Rehabilitation							
Mean	4.143	5.091	4.628	4.600	4.385	4.490	4.553
SD	1.878	1.659	1.813	1.225	1.699	1.475	1.630
<u>n</u>	21	22	43	25	26	51	94
Retribution							
Mean	3.619	3.364	3.488	4.040	3.308	3.667	3.585
SD	2.012	1.891	1.932	1.620	1.379	1.532	1.719
<u>n</u>	21	22	43	25	26	51	94

Note. The ratings were made on a seven point scale (0 = no influence, 6 = total influence). SD = Standard Deviation. n = number of participants.

Appendix E

List of MANOVA Results for Sentencing Goals

	df1	df2	F value	p value
Goal of Rehabilitation				
Type of crime	1	173	.014	.906
Sex of participant	1	173	4.056	.046*
Level of offender remorse	1	173	2.727	.100
Level of victim harm	1	173	1.099	.296
Crime x sex	1	173	.076	.783
Crime x remorse	1	173	.030	.862
Crime x harm	1	173	.072	.789
Sex x remorse	1	173	.008	.931
Sex x harm	1	173	.164	.686
Remorse x harm	1	173	2.531	.113
Crime x sex x remorse	1	173	1.930	.166
Crime x sex x harm	1	173	2.394	.124
Crime x remorse x harm	1	173	.131	.718
Sex x remorse x harm	1	173	.180	.672
Crime x sex x remorse x harm	1	173	3.288	.071
Goal of Deterrence				
Type of crime	1	173	.024	.877
Sex of participant	1	173	.434	.511
Level of offender remorse	1	173	.006	.938
Level of victim harm	1	173	.231	.632
Crime x sex	1	173	.265	.608
Crime x remorse	1	173	1.375	.243
Crime x harm	1	173	6.607	.011*
Sex x remorse	1	173	2.498	.116
Sex x harm	1	173	1.267	.262
Remorse x harm	1	173	4.685	.032*
Crime x sex x remorse	1	173	2.303	.131
Crime x sex x harm	1	173	1.064	.304
Sex x remorse x harm	1	173	.383	.537
Crime x remorse x harm	1	173	.144	.705

Appendix E ctd.	df1	df2	F value	p value
Goal of Deterrence ctd.				
Crime x sex x remorse x harm	1	173	1.606	.207
Goal of Incapacitation				
Type of crime	1	173	1.870	.173
Sex of participant	1	173	1.172	.280
Level of offender remorse	1	173	.339	.561
Level of victim harm	1	173	.963	.328
Crime x sex	1	173	2.930	.089
Crime x remorse	1	173	.400	.528
Crime x harm	1	173	.867	.353
Sex x remorse	1	173	.933	.335
Sex x harm	1	173	.749	.388
Remorse x harm	1	173	2.788	.097
Crime x sex x harm	1	173	1.311	.254
Crime x remorse x harm	1	173	.056	.814
Sex x remorse x harm	1	173	.729	.394
Crime x sex x remorse x harm	1	173	.074	.786
Goal of Retribution				
Type of crime	1	173	4.143	.043*
Sex of participant	1	173	2.691	.103
Level of offender remorse	1	173	3.231	.074
Level of victim harm	1	173	.740	.391
Crime x sex	1	173	3.495	.063
Crime x remorse	1	173	.054	.816
Crime x harm	1	173	1.111	.293
Sex x remorse	1	173	.011	.916
Sex x harm	1	173	.012	.911
Remorse x harm	1	173	.009	.924
Crime x sex x remorse	1	173	.722	.397
Crime x sex x harm	1	173	.350	.555
Crime x remorse x harm	1	173	1.594	.208

Appendix E ctd.	df1	df2	F value	P value
Goal of Retribution ctd.				
Sex x remorse x harm	1	173	.884	.348
Crime x sex x remorse x harm	1	173	2.501	.116

Note. df = degrees of freedom, * = significant at $p < .05$