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The effects of an offender's ethnicity as well as the type of crime committed, on public perceptions regarding seriousness, and the sentencing principles seen as most appropriate

Andrea Kysely
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The Effects of an Offender's Ethnicity as well as the Type of Crime Committed, on Public Perceptions Regarding Seriousness, and the Sentencing Principles Seen as Most Appropriate.

Andrea Kysely

A Report Submitted in Partial Fulfilment of the Requirements for the Award of Bachelor of Arts Honours, Faculty of Computing, Health and Science.

Edith Cowan University

Submitted (August, 2008)

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Table of Contents

| | |
|--|-----|
| Use of Thesis Statement..... | i |
| Right and Access Declaration..... | ii |
| Title Page..... | iii |
| Declaration..... | iv |
| Acknowledgements..... | v |
| Table of Contents..... | vi |
| Title Page for the Literature Review..... | 1 |
| Abstract..... | 2 |
| The Goals of Sentencing..... | 5 |
| The Effects of Perceived Seriousness of a Crime on Sentencing..... | 8 |
| Effects of an Offender's Race on Sentencing..... | 16 |
| Conclusions and Avenues for Future Research..... | 22 |
| References..... | 25 |
| Guidelines for Contributions by Authors..... | 30 |
| Title Page for Research Project..... | 32 |
| Abstract..... | 33 |
| Introduction..... | 34 |
| The Goals of Sentencing..... | 35 |
| The Effects of Perceived Seriousness of a Crime on Sentencing.... | 37 |
| The Effects of an Offender's Race on Sentencing..... | 39 |
| The Current Study..... | 40 |
| Method..... | 42 |
| Research Design..... | 42 |
| Participants..... | 42 |
| Materials..... | 43 |
| Procedure..... | 44 |
| Results..... | 45 |
| Discussion..... | 47 |

| | |
|--|----|
| Does the type of crime committed affect the perceived seriousness of a crime?..... | 47 |
| Does the perceived seriousness of the crime committed influence attitudes regarding the sentencing principles seen as most important?..... | 49 |
| Does the ethnicity of an offender affect the perceived severity of a crime?..... | 51 |
| Does the ethnicity of an offender influence attitudes regarding the sentencing goals seen as most important?..... | 52 |
| Conclusions Drawn from the Study..... | 53 |
| Limitations of Research..... | 54 |
| Avenues for Future Research..... | 55 |
| References..... | 57 |
| Appendix A (Alternative Vignettes)..... | 62 |
| Appendix B (Questionnaire and Demographics Forms)..... | 63 |
| Appendix C (Participant Information Letter)..... | 65 |
| Guidelines for Contributions by Authors..... | 66 |

Andrea Kysely

The Effects of an Offender's Ethnicity as well as the Seriousness of a Crime, on the
Public's Satisfaction with the Punishment Incurred, and the Sentencing Principles Seen
as Most Appropriate.

Abstract

Public opinion has been evidenced as exerting significant influence over the development of, and alteration to, policies dealing with offenders (Roberts, 1992). Research suggests that an offender's ethnicity, as well as the seriousness of a crime, have a significant effect on public opinion regarding the appropriateness of an imposed sentence, and the goals of sentencing seen as most important (Herzog & Rattner, 2003). However whilst research in the United States and Europe has continued to expand, there is a significant lack of research directly related to the Australian context. The significant over-representation of Indigenous Australians in Australian prisons, potentially reflects some form of racial disparity in sentencing, that could be deeply grounded in the societal values held by the public (Weatherburn & Indermaur, 2004). It has been found that as the perceived severity of a crime increases, the public are more likely to support a punitive sentence (Tufts & Roberts, 2002). Similarly it has also been found that extralegal factors such as an offender's race can also affect the public's views regarding the appropriateness of sentencing decisions made by judges (Case, 2008). Because of the significant influence public opinion holds over policy makers, and the potential for offender characteristics to negatively influence these perceptions, future research should focus on how firmly these perceptions are set in society.

Furthermore, research should examine how the public could be educated to change these views through the use of widespread campaigns.

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Submitted: August, 2008

The Effects of an Offender's Ethnicity as well as the Perceived Seriousness of a Crime,
on the Public's Satisfaction with the Punishment Incurred, and the Sentencing
Principles Seen as Most Appropriate

The criminal justice system's response to crime has historically been significantly affected by public opinion (Roberts, 1992). However throughout the 1990's, public opinion in Australia appeared to be indicative of a dissatisfaction with judicial sentencing (Green, Staerkle & Sears, 2006). As a result the liberal government of the time was put under considerable strain to increase spending on law and order, which is often exacerbated when public perceptions are that crime is increasing (Weatherburn & Indermaur, 2004). Despite an active and visible increase in the number of police officers on Australian streets, in addition to tougher sentencing policies and a fluctuating increase in prison populations, there remains a gap between the actual crime rates and peoples' perceptions of crime (Duffy, Wake, Burrows & Bremner, 2008). However studies of these public perceptions within an Australian context are scarce.

Public opinions regarding crime and justice can provide important information to policy makers regarding what the society of the time is willing to accept, as well as not, in terms of appropriate sentences for those who break the law (Simms & Johnston, 2004). The current lack of research relevant to the Australian context, regarding the public's satisfaction with the punishment given to offenders who engage in criminal behaviour, and the sentencing principles seen as most appropriate, does not allow for the identification of factors the public would consider as most important when considering punishment. Furthermore the lack of research means that the effects of specific factors such as ethnicity and crime seriousness on people's opinions are not known. The little research that exists relevant to the Australian context suggests that

the public significantly over-estimate the rates of offending and the risk of actually becoming victims of crime, especially when offenders belong to a racial minority (Weatherburn & Indermaur, 2004).

In researching public opinions regarding the punishment of various offenders, a number of factors must be examined. These include the public's perceptions regarding the sentencing goals seen as most important, how severely offenders should be punished, and what form this punishment should take. Furthermore, focus is placed on how factors such as the perceived severity of a crime, in addition to offender characteristics such as race; take in forming these public opinions. Taken together these areas of prior research help to explain how the public expects certain offenders that have engaged in some form of criminal behavior, to be punished.

This literature review will examine the body of research that has previously been conducted regarding crime severity and offender race. This will begin with an examination and definition of the most influential sentencing goals relied on by the current Australian criminal justice system. The review will then examine how the interpretation of the seriousness of a crime can affect the public's opinion regarding the sentencing goals seen as most appropriate, and how this affects the severity of punishment they would impose. The review will also focus on how the offender characteristic of race can affect the public's perception of the sentencing goals seen as most appropriate. The impact of both these factors on sentence severity will be explored to establish whether future research should be conducted to examine to what extent the public perception of these factors should be considered during the sentencing process.

Within this literature review certain terminology will be used. The offenders referred to will be considered as adult and thus over the age of 18. Additionally, being

classified as an offender means the individual has participated in some form of criminal behaviour and thus violated the laws or codes that are existent in their country (Butt, 2004).

The Goals of Sentencing

As a general social phenomenon, people have the tendency to punish those who have committed a crime and thus violated some form of social code (Green, Staerkle & Sears, 2006). It is then important to determine what the functions of such punishment are meant to be. There are several psychological and sociological theories that attempt to describe these functions (Derby, Carlsmith & Robinson, 2000). Operant learning theory proposes that punishment is essentially used as a means of controlling and subsequently decreasing certain forms of undesirable behaviour (Derby et al.). A perspective that accounts for the notion of punishment from an earlier, more impressionable age is developmental theory, in which punishment is accounted for as a means of modifying behaviour in children (Derby et al.). Adapted to the current context, the theory suggests that by punishing offenders from an early age, and doing so consistently, the offender will learn not to engage in that deviant behaviour. This debate over the antecedents to criminal behavior and the effects of punishment is vast and research continues to be produced that supports the opposing theories (Simms, 2003).

Despite the varied research regarding the theories of punishment seen as most influential, general public polls suggest people punish because they believe the offender deserves some form of discipline, to reduce the possibility of future offending, and to a lesser extent because of the harm they have caused (Stalans, 1993). This is also known as the utilitarian or consequential approach to punishment (Stalans). The utilitarian approach justifies punishment as a means of preventing undesirable

consequences for society, and it primarily concentrates on the prevention of future criminal activity (Banks, 2004).

The utilitarian approach encompasses the sentencing goals of deterrence, incapacitation and rehabilitation (Banks, 2004). The sentencing goal of deterrence states that the best way to maintain social harmony is to prevent future transgressions (Carlsmith, Darley & Robinson, 2002). There are two forms of deterrence; the first is known as individual deterrence which aims to discourage the offender themselves from participating in future criminal activity (Carlsmith et al.). The second form of deterrence is based on a more general principle which aims to discourage the greater population from engaging in similar criminal acts as the offender, by demonstrating the possible punitive consequences that they may incur should they choose to do so (Goldsmith, Israel & Daly, 2003). The deterrence doctrine emphasises that the perceived threat of a certain, swift and severe punishment will curb criminal activity (Schoepfer, Carmichael & Piquero, 2007). Similarly, the sentencing goal of incapacitation aims to prevent the possibility of future harm to both the offender and the community, by segregating the offender from the general population and thus making it impossible to re-offend (Feather & Souter, 2002).

The sentencing goal of rehabilitation is another key component of the utilitarian perspective, this states that a means of protecting the community from future harm is to re-educate and rehabilitate the individual by targeting the underlying causes of the offending (Goldsmith et al., 2003). The notion behind this goal is that in order to repair the harm that has been caused by the crime, there must be a focus on the offender rather than the offence (Gromet & Darley, 2006). Research particularly in the United States shows that support for the rehabilitative principle as a core goal of corrections is existent but not prominent (Gromet & Darley). As a result campaigns in both the US

and Australia endorsing a 'get tough' stance on crime have flourished, enabling incapacitation to be viewed as a legitimate correctional objective (Sundt, Cullen, Applegate & Turner, 1998). This reflects the somewhat opposing theory to punishment of criminal behaviour known as the retributivist perspective, which focuses directly on the wrong doings of the offender and furthermore assigns blame onto the individual for the violations of law (Banks, 2004).

Under the retributivist perspective, crime is committed by individuals who lack self control and the moral code endorsed by the society they exist in, as a result offenders must be disciplined and thus the possibility to escape punishment is eliminated (Carroll, Perkowitz, Lurigio & Weaver, 1987). The notion of just deserts that underlies this theory states that when an individual participates in some form of criminal activity they harm a society by violating its laws (Carlsmith et al., 2002). In turn, this casts justice into a state of disequilibrium, and thus sanctions against the offender need to be taken to restore balance (Carlsmith et al.). The general idea is to make offenders accountable for their actions, thus embracing the sentencing goal of retribution (Banks, 2004).

Examining past perspectives demonstrates that traditionally, public perceptions have fluctuated between finding the rehabilitative and the retributive goals of sentencing as important, and an emphasis on combining the two perspectives had been initiated in both the US and Australia (Sundt et al., 1998). Whilst retribution has at almost every point in history been seen as important, the emphasis on rehabilitation has at several points during the past century come under great scrutiny (Sundt et al.). As a result, during the 1960's and 1970's there was an emphasis on 'getting tough' on those who broke the law and this highlighted a retributive type of perspective to be embraced by the justice system. However by the 1980's research in Australia showed that the

public still endorsed rehabilitation as an important objective in sentencing (Walker, Collins & Wilson, 1987). Since then there has been a renewed emphasis placed on rehabilitative policies in the criminal justice system especially in combination with a punitive sanction (Stylianous, 2003). Research suggests that the interplay of effective rehabilitation and education programs, with some form of punitive measure will facilitate change for the offender once they have been released, and thus decrease the likelihood of future potential harm (Kaukinen & Colavecchia, 1999). However within this research concerning the goals of sentencing, an issue arises regarding the influence of the seriousness of a crime, and the race of an offender on public opinion regarding an appropriate punishment (Kaukinen & Colavecchia).

The Effect of Perceived Seriousness of a Crime on Sentencing

The topic of crime seriousness, as perceived by the public, has been the subject of much sociological as well as criminological research (Herzog & Rattner, 2003). Crime seriousness is based on perceptions that are mediated by the social values and structure in which the crime was committed (Kwan, Chic, Ip & Kwen, 2002). There is a principle within the criminal justice system referred to as substantive justice (Ferdinand & McDermott, 2002). This states that similar offences, in which the characteristics surrounding the crime are alike, should receive not only a similar punishment, but should impact on the offender with identical severity. It is therefore important to understand how the unique characteristics of a crime can affect this principle. Crime is most commonly seen as an undesirable aspect within society, therefore the nature and intensity of a crime consequently reflect the public's perception of the offence (Stylianous, 2003). These perceptions are in turn dependent on the actual, evidence based parameters of the crime (Stylianous). Public perceptions relating to the seriousness of a crime have been thought to be centrally based on one

key factor which involves identifying the offender's motivation behind the commission of the crime, however research suggests that this is not always the case (Carlsmith, Darley & Robinson, 2002).

One key factor in public perceptions regarding what sentencing goals they will perceive as being most important when punishing an offender, and the subsequent penalty they see as most appropriate, has been found to be the perceived seriousness of an offence (Gromet & Darley, 2006). The seriousness of crime is tied to the moral wrong doings the offender has engaged in, and the intent they are seen to have to do so, more broadly it is related to the social norm that is violated (Mustard, 2001). Public perception polls indicate that society demands that the punishment imposed on an offender is proportionate to the crime they have committed, and this consequently involves increasing the punitiveness of the punishment as the severity of the crime escalates (Gromet & Darley). Much research has been conducted to examine public opinions on sentencing, however it has been identified that this form of research contains several potential methodological limitations (Stylianous, 2003).

A review conducted by Stylianous (2003) aimed to understand the measures used to gather information regarding the public's opinion of the perceived seriousness of criminal actions. The review identified that past research concentrating on this aspect has largely relied on short vignettes and questionnaires, most commonly used in combination (Stylianous). However it also identified common faults in public opinion research, which includes both, questionnaire content and structure, as well as forms of measurement. More specifically each scenario being presented on a separate page and the order they are presented in, has been found to act as a potential shortcoming of research designs (Stylianous). However further analysis has found that these factors do not significantly affect the reliability of the results attained from research if they have

been accounted for in the study design, by such measures as random assignment (Gromet & Darley, 2006; Pfeiffer, Windzio & Kleimann, 2005). It is therefore important that analysis of studies that use vignettes be done with caution and that research design is thoroughly reviewed.

In addition to identifying several potential shortcomings of previous research, the Stylianous (2003) study concluded that the most common characteristic associated with crime seriousness is the act's perceived consequences. Thus the behaviour that is displayed during the commission of a crime, such as violence causing bodily harm is perceived as the most severe type of crime, followed by property offences that may include property loss or damage (Stylianous). This idea that harmful characteristics of a crime are directly related to the perceived seriousness was examined by Herzog and Rattner (2003).

The Herzog and Rattner (2003) study provided participants with scenarios outlining different types of crime committed, asking them to assign seriousness rankings to each scenario. To maintain uniformity all respondents were told that each scenario did contain a criminal offence. Despite the study segregating the study population of 483 into three culturally distinct groups, results identified that violent offences which caused actual physical harm to the victim obtained the highest mean scores in all three groups, and additionally had the smallest standard deviation, therefore indicating a high consensus between each group. This result is seen as significant as it highlights the idea that violent crime such as assault or murder is seen as one of the most serious crimes, despite the demographic information pertaining to the group being tested (Herzog & Prattner). The less actual harm inflicted to the victim, the less serious the crime was viewed, with the lowest seriousness ranking being assigned to crimes that were termed as 'victimless', such as burglary. The results

mirror the finding of several studies conducted in identical areas, thus giving strength to the notion that the perceived seriousness of a crime is affected by the factors surrounding the crime, primary whether it results in physical harm (Herzog & Rattner).

A further extension of this ideal that factors surrounding a crime such as the harm caused to a victim affect the perceived seriousness of a crime, is that with higher severity, the perceived appropriateness of sentencing goals can be varied (Piquero, Carmichael & Piquero, 2008). This was reflected in an American study conducted by Tufts and Roberts (2002), who used a 2×2×2 design in which the variables of the offender's age, their criminal history, and the nature of the offence were manipulated. Unlike some previous research (Herzog, 2003), responses that favoured incarceration as a means of dealing with crime were not high, making up less than 50 percent (Piquero et al.). Further analysis identified that there were disparities between the sentencing goals seen as most appropriate, when the consequences of the crime were manipulated.

The results of the Tufts and Roberts (2002) study were consistent with similar studies, as incapacitation was seen as a significantly prominent goal in sentencing those offenders found guilty of severe, violent crimes (Herzog, 2003; Piquero et al., 2008). A limitation of this study common to this form of research is that the less details provided about the surrounding context of the crime, the more likely that the participants will provide a response that will be more punitive in nature (Hough & Roberts, 1999). It has since been discovered that by providing more information about the individual case, as well as the available penalties, the responded will be less likely to impose a primarily punitive sentence. However research has shown that providing fewer details also provides results that are easily replicable as well as consistent (Herzog, 2003). Nevertheless the results add weight to the notion that perceived crime

seriousness has an important effect on not only the sentencing severity; but also on the sentencing principles seen as most appropriate (Tufts & Roberts). A study conducted by Feather and Souter (2002) was able to further adapt these findings to an Australian context, identifying crimes seriousness as a factor exerting significant influence on public perceptions regarding sentencing principles.

The Feather and Souter (2002) study aimed to investigate the effects the perceived seriousness of a crime on the sentencing principles seen by the public as most important. The Australian study sampled 181 participants who were randomly assigned to one of four experimental conditions. The participants were required to study four experimentally manipulated vignettes, and to then gauge the seriousness of the crime. The results indicated that as the public's perception of the crime being serious increased, they found the offender more culpable and thus deserving of a harsher sentence (Feather & Souter). This subsequently correlated to the punishment goal of retribution and, furthermore deterrence. Despite having questionable inter-rater reliability, the study used the most common outcome measures to gather consistent results, thus allowing a number of conclusions to be drawn. The study concluded that the seriousness of a crime affects not only the public's opinion regarding the sentencing principles they see as most important, but also the severity of sentences they would impose (Feather & Stouter).

This idea that perceived crime seriousness significantly impacts on the severity of a sentence the public would impose on an offender, was supported through a study conducted by O'Connell and Whelan (1996), who established that the results of previous research could be replicated in a European context. Through the use of Likert type scaling, respondents were asked to rate the severity of scenarios that contained some form of criminal activity. Several one way ANOVAs were conducted on the

results which identified all results as significant for all offences. They concluded that offences viewed as high in seriousness resulted in punishment that was highly punitive. Therefore the perception of severity and punitiveness are two inter correlated concepts.

Respondents in the O'Connell and Whelan (1996) study, identified murder as the most serious of the crimes provided, followed by burglary. Therefore more severe punitive punishments such as incarceration and retribution were attributed to those who committed murder with a significant de-emphasis on rehabilitation. However the rehabilitative principle was much more strongly endorsed for those offenders found guilty of crimes perceived as less serious such as burglary, which was identified as causing minimal to no physical harm to victims (O'Connell & Whelan). A limitation of this study is the lack of appropriate definition of significant terms provided to the participants. Seriousness as a word has many definitions and depending on which one of these the respondent holds, which could be affected by such factors such as culture, could potentially affect the results. Alternative studies have shown that despite decreasing the ambiguity surrounding the term seriousness, the results vary only slightly, and not enough to cause the reliability of the study to be affected (O'Connell & Whelan; Simms, 2003; Tufts & Roberts; 2002). The O'Connell & Whelan study however defined seriousness as the harmfulness and wrongfulness of a criminal act, a most common definition. However when attempting to examine the perceived seriousness of a crime, it has been shown that this is not only affected by the type of crime committed, but also the characteristics of the respondent (Pfeiffer et al., 2005).

A study by Kwan et al., (2002) used data from 845 telephone surveys conducted in Hong Kong, to assert this correlation between respondents' characteristics, and their perception regarding the severity of a crime. Participants were asked to compare two crimes to a list of 14 others, and rate them on their seriousness.

The results of the study were able to assert that views of seriousness are proportionally affected by the respondent's socio-economic status (Kwan et al.). Most significantly the results indicated that a person's socio-economic level reflects their views regarding the seriousness of a crime, and thus it was found that a respondent's gender, age and education level would affect their judgement. A potential limitation of this study involves the structure of the questionnaires. However the study claims that by providing two significantly different initial crimes, to compare to each other, the respondent was able to make a distinction of severity, from the very beginning (Khaw). The study identified that because of these factors unique to subgroups within society, the level of seriousness a respondent will perceive, will inevitably vary (Kwan et al.). Additionally, the study went on to propose that these perceptions of crime seriousness were also affected by the actual fear the public had of particular crimes, which was in turn affected by their socio-economic status (Kwan et al.).

An Australian study which examined this correlation between socio-economic status, and perceived fear of crime was conducted by Weatherburn and Indermaur (2004). The study was indicative of the misinterpretation the public have of actual recorded crime rates. In the study 2164 respondents were asked to identify how likely they felt it was that they were to become victims of crime. Offences included were burglary, motor vehicle theft and assault. It was found that the majority of respondents had in fact overestimated the trends in each type of crime, with a tendency of blue collar workers to assume much higher rates of burglary and motor vehicle thefts (Weatherburn & Indermaur). This disparity between public perceptions and the actual trends of both homicide and burglary are indicative of the distortions regarding crime rates the public hold (Herzog & Rattner, 2003).

The gap between the actual crime rates reported, and the perceived rate of crime held by the public is reflected in the latest statistics. These statistics suggest that the actual victimisation rates in Australia for murder have fallen since 2006 with 1.2 victims per 100 000 in 2007 (Dearden & Bricknell, 2007). Similarly, rates of victimisation of burglary have fallen with 86 victims per 100 000 in 2007. These rates suggest that over a 17 year period ending in 2006, homicide has fluctuated by 0.7 per 100 000, with a general decline being a common trend. In regards to burglary, statistics suggest that there was an overall decline in the incidents of burglary between 1995 and 2006 (Ratcliffe, 2007). Despite these figures, results such as those of the Herzog and Rattner (2003) study reflect a perceived rise in burglary and homicide trends. The study proposed that it is the fear of crime that has been found to lead to perceptions of crime trends rising, and thus support for the retributive philosophy of punishment has been given further strength (Herzog & Rattner).

This support for increasingly punitive punishments for offenders was reflected in Australia in the year 2000 when the Prime Minister commented on similar results saying that the introduction of new mandatory sentences was seen as favourable by the general public, and this was not surprising (Tufts & Roberts, 2002). This statement reflects the notion that the public's satisfaction with punishments imposed on offenders, is affected by the seriousness of a crime and the trends of that crime in the society. Furthermore, Kysan (2000) found that public perceptions relating to the incidence and punishment of crime are consequential. This refers to the notion that the antecedents to these perceptions are firmly affected by offender characteristics, one of the main ones being the offender's race.

Effects of an Offender's Race on Sentencing

Treating offenders comparatively and equally is not only important ethically, but also as it can potentially reduce crime developing (Ferdinand & McDermott, 2002). One of the largest obstacles to the fair, uniform treatment of offenders whilst sentencing is a phenomenon identified as racial disparity (Ferdinand & McDermott). Racial disparity in the criminal justice system exists when groups of minorities under the control of the system, are substantially greater than the proportion of these minority groups in the general public. However it must be noted that racial disparity in sentencing is sometimes present in constructive manner, because whilst factors surrounding an offence may be the same, the punishment incurred can hold drastically different consequences for each offender (Ferdinand & McDermott).

Specific to the Australian context, Indigenous Australians have customary law that they enforce on offenders of an Aboriginal background thus imposing punishments such as stigmatisation and shame. These may significantly affect an Aboriginal offender, and therefore the imposition of western punishment such as incarceration means they have essentially been punished twice, thus potentially reflecting some level of racial disparity (Blagg & Morgan, 2004). Whilst customary law is recognised to a smaller degree in some states, the lack of wider recognition results in the potential for harsher punishment of Aboriginal offenders. There is however clear evidence of negative racial disparity in sentencing which is reflected by statistics that show the level of over-representation of Indigenous Australians in custody during 2002 was an enormous 17 percent (Kwiatkowski & Smith, 2005). In both property and violent offence categories, Indigenous offenders were arrested at almost twice the rate non-Indigenous offenders were.

Twenty years ago a ground breaking study was conducted in the US, which attempted to illustrate the disparities in arrest rates of minorities in contrast to the white middle class general population (D'Alessio & Stolzenberg, 2003). The study conducted by Hindelang (1978) used results from a National Crime Victimization Survey to assess the arrest rates of offenders of varied age, gender and race. The results of the study indicated that African American offenders were arrested and incarcerated at a rate that was significantly higher than that of the white-middle class, especially in assault or violent offences. A distinction here was made that this minority was over represented in the criminal justice system as they were being punished more harshly for committing the same crimes, and were not actually committing more crime. A proposed explanation for this phenomenon is the notion of racially biased law enforcement practices (D'Alessio & Stolzenberg). A more recent study to develop this notion further by analysing arrest rates in 17 states in the US was conducted by D'Alessio and Stolzenberg.

The central aim of the D'Alessio and Stolzenberg (2003) study was to investigate the influence of an offender's race on the likelihood of arrest. Contrary to Hindelang's study, the results showed that white middle class Americans were actually arrested at a higher rate for property and assault offences (D'Alessio & Stolzenberg). Conversely, similar to Hindelang's study, the results demonstrated that minorities are arrested at an intensity that significantly outweighs their number in the general population. This created a large over representation of minorities under the control of the criminal system, reflecting racial disparity in the American justice system.

The topic regarding the effect of race on sentencing has remained fairly elusive due to the results identifying contradictory findings, thus research continues to be conducted (Mitchell, 2005). Throughout this research it has been proposed that the

effects of race on sentencing are confined to crimes viewed as more serious (Spohn, 2000). When testing jurors in the US on their sentencing decisions, it was identified that race did play an important role on the sentencing decision undertaken (Spohn). However the factor of race was only seen to affect the sentencing decisions of jurors when the crime was perceived as being highly serious. In cases where the crime was perceived to be less serious, race effects did not appear to be a factor. Furthermore, when race did become a predictor of sentencing outcomes, as a result of those cases being perceived as more serious such as murder, penalties were also more severe with a focus on incarceration and punishment rather than deterrence or rehabilitation (Spohn). However the ability to generalise these findings is limited due to their narrow and population specific participant pool, and their exclusive focus on the last stage of the sentencing decision. Despite this, replication of these results allows for the conclusion that race does have an impact of sentencing, and furthermore that perceptions can be affected negatively by race (Spohn).

Further research in the US has shown that young, black males are being sentenced harsher than any other group in society for the same crimes (Staffensmeire, Ulmer & Kramer, 1998). However research on this topic is fairly inconsistent and sentencing disparity dependant on racial characteristics has been neither concretely accepted nor disproved. A study conducted by Staffensmeire et al., (1998) examined the hypothesis that offenders belonging to a racial minority are more likely to be sentenced more harshly, and their punishment is bound to be more punitive in nature. The data compared over 130 000 cases of criminal offending to determine whether any significant effect of race as well as age and gender could be found. The results suggested that the primary factor affecting the sentence a respondent would impose was an offender's past history; this was however closely followed by a significant

effect of race. It was found that black males are more likely to be perceived as more dangerous than members of the general public, and furthermore they are seen as less reformable (Staffensmeire et al.). This then led to participants giving preference to more punitive and less rehabilitative sentences when faced with an offender of a racial minority. A potential limitation of this research could be the highly specific target population it utilised, however the ability to generalise these findings to other localities is further enabled due to their congruity with results attained from past and present research (Mitchell, 2005; Spohn, 2000).

This view of certain minority groups as being more violent and non-reformable, has been proposed to be a result of social stereotypes (Hurwitz & Peffley, 1997). Social stereotypes can be defined as cognitive structures that each person possesses which contain certain beliefs and expectations about groups of people. Furthermore, these stereotypes have been found to affect all levels of information processing and thus potentially can be harmful to what is supposed to be an unbiased sentencing process (Stalans, 1993). The point where these racial stereotypes become dangerous and influential has been demonstrated by a study conducted by Hurwitz and Peffley (1997). This study identified how offenders belonging to a racial minority are overwhelmingly seen as aggressive and perceived as guilty more often than offender belonging to the larger cohort in society. Consequently, if an offender is perceived to be more hostile, the sentence imposed tends to be harsher as they are seen with greater potential to re-offend in the future. Therefore the prospect that minorities are viewed as this more often, can cause substantial racial disparity in sentencing (Hurwitz & Peffley).

The effect of perceptions of race, on consequential judgements are seen to be highly dependant on the social stereotypes that the public hold, especially when the

case or vignette they are provided with fits this in a certain type of crime category (Baker, 2001). Therefore a correlation can be established between the notion that certain crimes become stereotyped as either black or white, and the nature of these acts being perceived as aggressive and violent. The results of the Hurwitz and Peffley study become important in a grander scheme where they demonstrate race as playing a primary role in shaping attitudes towards policies that are essentially punitive, and to a lesser extent, policies that have a rehabilitative focus (Hurwitz & Peffley). It was also revealed that because offenders, who were assigned rehabilitative punishments that were aimed at preventing incarceration, were found to be much less stigmatised and thus racial stereotypes were much less relevant. This led to a conclusion that only when the crimes are violent and result in actual physical harm to the victim, are policies punitive, and negative stereotypes are much more likely to affect sentencing decisions (Hurwitz & Peffley). Limitations to this study exist in that the measurement tools fail to define key terms and thus the responses obtained from participants may have been inconsistent. However the objectivity of the questions and the basic details provided allow results to be comparable and analysable. These results however have found that violent and harmful crimes lead to a more punitive punishment (Case, 2008).

As found by Hurwitz and Peffley (2003) the notion that social stereotypes can infringe on the sentencing goals seen as most appropriate by the public, can further begin to create certain stereotypes surrounding the offenders who engage in certain criminal acts (Johnston, 2008). This phenomenon is classed as racial typification of crime, which when high, is positively correlated to support for more punitive policies (Johnston). In the context of relevant research, racial typification describes a situation where offenders belonging to a minority are stereotyped to be more likely to commit a certain type of crime, thus often resulting in the over representation of that minority in

the criminal justice system (Chiricos, Welch & Gertz, 2004). As a result it can further be established that racial typification is linked to punitive attributes and thus the sentencing goals of incarceration and punishment, which become prominent in the public's punishment verdict for an offender found guilty of a specific offence.

A study conducted in the US by Esqueda, Espinoza and Culhave (2008), showed support for this notion of punitiveness by providing participants with several sets of vignettes to identify varied effects on verdict decisions. It has previously been assumed that jurors' decisions are based predominantly on the evidence and facts presented about the offence, however using the responses of 357 mock jurors the study was able to ascertain that these decisions regarding both the length and severity of a sentence were affected by extralegal factors (Esqueda et al.). One of the largest contributors to the public's choice for appropriate sentences was found to be race. Race was found to negatively influence verdict outcomes in terms of sentence length and the amount of culpability assigned to the offender, as well as influencing the severity of a sentence the mock jurors would find most appropriate (Esqueda et al). The results further found that this phenomenon was especially relatable when the offender belonged to a racial minority, this was seen as a negative characteristic which the juror could discriminate against. Once again, specific samples somewhat limit the ability of the results to be generalised; however the statistically significant results give validity to the conclusions drawn from the study. It can therefore be concluded that an offender's ethnicity can potentially have a significant effect on public opinions regarding not only the severity of a crime, but also on the severity of a sentence imposed (Carlsmith, Darley & Robinson, 2002; Herzog, 2003).

Conclusion and Avenues for Future Research

In conclusion, it has been identified that the offender's ethnicity, as well as the seriousness of a crime, have a significant effect on public opinion regarding the appropriateness of a punishment, and the corresponding goals of sentencing seen as most important (Carlsmith, Darley & Robinson, 2002; Herzog, 2003). There is a clear lack of research conducted within the Australian context. Consequently comment on the Australian publics' perceptions of sentencing can not be conclusively summarised. However research in the United States and Europe indicates that the public remain dissatisfied with current sentencing procedures. It has further been identified that the continual shift towards a more punitive approach has significantly slowed, and endorsement of rehabilitative policies has been ascending (Herzog & Rattner, 2003).

It is evident that the perceived seriousness of a crime has an impact on both the sentencing goal seen as most important and the severity of a punishment seen as appropriate. Crimes seen as most serious are ones that have caused actual physical harm to a victim such as assault or homicide, thus attracting the harshest sanctions justified by retributive as well as punitive ideals. Conversely, property offences have been found to be viewed as less serious and thus warrant less punitive and to some extent, rehabilitative punishments. Furthermore, it has also been established that correlation exists between the racial typification of an offender and the severity and length of a sentence then seen as most appropriate by the public. Being presented with a vignette detailing an offender belonging to a racial minority had a negative effect on sentencing decisions the public view as most appropriate, in that sentences become more punitive and longer. Once again little research has been conducted on these correlations in public perceptions within the Australian context.

This literature review has ascertained that there is a severe lack of Australia public opinion research relating to both sentencing principles seen as most important and furthermore, in relation to the public views regarding the sentencing of Indigenous Australians. There is a clear disparity evidenced between the Australian publics perceptions of the amount of certain crimes committed, and the heightened fear of victimisation in addition to the limited research on the racial typification engaged in by the public. As a result, it is proposed that future research should investigate whether there is in fact a clear disparity between perceived and actual crime rates, as well as a lack of research regarding the sentencing principles seen as most important when dealing with crimes of varying seriousness and offenders of varying ethnic backgrounds. It has been discussed how public opinion clearly influences, if not drives the implementation of policies within the criminal justice system, and thus the publics' opinions regarding the appropriate sentences for racially diverse offenders is important to be examined.

Research has demonstrated that crime seriousness as well as race, has an effect on the sentencing principles seen as most important when deciding on the severity of a sentence. Once this is adapted to the Australian context, future research would further need to establish how firmly grounded these ideals are in Australian society, and identify how the public could be educated or informed to change these negatively influencing attitudes. Furthermore, due to research showing disparity between perceived and actual rates of crime, it is proposed that future research focuses on how education and generally informing the public of the actual trends and context surrounding certain crimes, would impact on the society's fear of crime and thus if this would have a further affect on the importance placed on the various sentencing principles. This literature review has identified a general lack of research in the

Australian context, and due to the significant effect of these opinions on policy makers, the need to further educate and thus empower the public is necessary.

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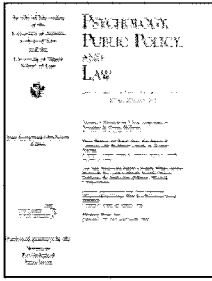
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The Effects of an Offender's Ethnicity as well as the Type of Crime Committed, on
Public Perceptions Regarding Seriousness, and the Sentencing Principles Seen as Most
Appropriate.

Andrea Kysely

Abstract

The current study aimed to use an Australian representative sample to investigate how public opinions can be affected by such variables as an offender's ethnicity, as well as the seriousness of a crime. The significant over-representation of Indigenous Australians in Australian prisons, and a lack of research directly related to the Western Australian context created a rationale for this study. The study involved a 2×2 (offender's ethnicity × crime seriousness) mixed design, in a quantitative research approach, with opportunity for respondents to further explain their ratings. The study involved 107 participants who were each placed in two of four experimental conditions, and asked to read an experimentally manipulated scenario, and complete a questionnaire. Results indicated that there was no significant effect of offender's ethnicity on participants' views regarding the severity of sentence to be given, or the sentencing goals seen as most important. In contrast, results indicated a significant effect of crime type, with crimes described as physically violent such as murder, viewed as most serious, as opposed to crimes that did not cause physical injury to the victim, such as burglary. Furthermore, results indicated that severity of a crime did not influence the sentencing goals seen as most important, with retribution preferred by participant for both murder and burglary.

Keywords: offender ethnicity, seriousness of crime, type of crime, sentencing goals, public opinion.

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The Effects of an Offender's Ethnicity as well as the Type of Crime Committed, on Public Perceptions Regarding Seriousness, and the Sentencing Principles Seen as Most Appropriate.

Introduction

The criminal justice system's response to crime has historically been significantly affected by public opinion (Roberts, 1992). However throughout the 1990's, public opinion appeared to be indicative of a dissatisfaction with judicial sentencing (Green, Staerkle & Sears, 2006). As a result the Liberal government of the time, in Australia, was put under considerable strain to increase spending on law and order, a type of spending that is often exacerbated when public perceptions are that crime, is increasing (Weatherburn & Indermaur, 2004). Despite an active and visible increase in the number of police officers on Australian streets, in addition to tougher sentencing policies and a fluctuating increase in prison populations, there remains a gap between actual crime rates and peoples' perceptions of crime (Duffy, Wake, Burrows & Bremner, 2008).

Public opinions regarding crime and justice can provide important information to policy makers regarding what the society of the time is willing to accept, or not, in terms of appropriate sentences for those who break the law (Simms & Johnston, 2004). The current lack of research relevant to the Australian context, regarding the public's satisfaction with the punishment given to offenders who engage in criminal behaviour, and the sentencing principles seen as most appropriate, does not allow for the identification of factors the public would consider as most important when considering punishment. Furthermore the lack of research means that the effects of specific factors such as ethnicity and crime seriousness on people's opinions are not known. The little research that exists relevant to the Australian context suggests that the public

significantly overestimate the rates of offending and the risk of actually becoming victims of crime, especially when offenders belong to a racial minority (Weatherburn & Indermaur, 2004).

Previous research on public opinions regarding the punishment of various offenders, has found a number of factors must be examined (Herzog, 2003). These include the public's perceptions regarding the sentencing goals seen as most important, how severely offenders should be punished, and what form this punishment should take.

The Goals of Sentencing

As a general social phenomenon, people have the tendency to punish those who have committed a crime and thus violated some form of social code (Green, Staerke & Sears, 2006). General public polls suggest people punish because they believe the offender deserves some form of discipline, to reduce the possibility of future offending, and to a lesser extent because of the harm they have caused (Stalans, 1993). This is also known as the utilitarian or consequential approach to punishment (Stalans). The utilitarian approach justifies punishment as a means of preventing undesirable consequences for society, and it primarily concentrates on the prevention of future criminal activity (Banks, 2004).

The utilitarian approach encompasses the three sentencing goals of deterrence, incapacitation and rehabilitation (Banks, 2004). The sentencing goal of deterrence states that the best way to maintain social harmony is to prevent future transgressions (Carlsmith, Darley & Robinson, 2002). There are two forms of deterrence; the first is known as individual deterrence which aims to discourage the offender themselves from participating in future criminal activity (Carlsmith et al.). The second form of deterrence is based on a more general principle which aims to discourage the greater

population from engaging in similar criminal acts as the offender, by demonstrating the possible punitive consequences that they may incur should they choose to do so (Goldsmith, Israel & Daly, 2003). The deterrence doctrine emphasises that the perceived threat of a certain, swift and severe punishment will curb criminal activity (Schoepfer, Carmichael & Piquero, 2007). Similarly, the sentencing goal of incapacitation aims to prevent the possibility of future harm to both the offender and the community, by segregating the offender from the general population and thus making it impossible to re-offend (Feather & Souter, 2002).

The sentencing goal of rehabilitation is another key component of the utilitarian perspective, this states that a means of protecting the community from future harm is to re-educate and rehabilitate the individual by targeting the underlying causes of the offending (Goldsmith et al., 2003). Research particularly in the United States shows that support for the rehabilitative principle as a core goal of corrections is existent but not prominent (Gromet & Darley, 2006). As a result campaigns in both the US and Australia endorsing a 'get tough' stance on crime have flourished, enabling incapacitation to be viewed as a legitimate correctional objective (Sundt, Cullen, Applegate & Turner, 1998). This reflects the somewhat opposing theory to punishment of criminal behaviour known as the retributivist perspective, which focuses directly on the wrong doings of the offender and furthermore assigns blame onto the individual for the violations of law (Banks, 2004).

Under the retributivist perspective, crime is committed by individuals who lack self control and the moral code endorsed by the society they exist in (Carroll, Perkowitz, Lurigio & Weaver, 1987). As a result offenders must be disciplined and thus the possibility of escaping punishment is eliminated. The general idea is to make offenders accountable for their actions, thus embracing the sentencing goal of

retribution (Banks, 2004). However since the early 1990's in both the US and Australia, there has been a renewed emphasis placed on rehabilitative policies in the criminal justice system especially in combination with a punitive sanction (Stylianous, 2003). Research suggests that the interplay of effective rehabilitation and education programs, with some form of punitive measure will facilitate change for the offender once they have been released, and thus decrease the likelihood of future potential harm (Sundt, Cullen, Applegate & Turner, 1998). However within this research concerning the goals of sentencing, an issue arises regarding the influence of the seriousness of a crime, and the race of an offender on public opinion regarding an appropriate punishment (Kaukinen & Colavecchia, 1999).

The Effect of Perceived Seriousness of a Crime on Sentencing

Crime seriousness is based on perceptions that are mediated by the social values and structure in which the crime was committed (Kwan, Chic, Ip & Kwen, 2002). These perceptions are in turn dependent on the actual, evidence based parameters of the crime (Stylianous, 2003). Research suggests that the key factor influencing public perceptions regarding what sentencing goals they will perceive as being most important when punishing an offender, and the subsequent penalty they see as most appropriate, is the perceived seriousness of an offence (Gromet & Darley, 2006). The seriousness of crime is tied to the moral wrong doings the offender has engaged in and the intent they are seen to have to do so (Mustard, 2001). Public perception polls indicate that society demands that the punishment imposed on an offender is proportionate to the crime they have committed, and this consequently involves increasing the punitiveness of the punishment as the severity of the crime escalates (Gromet & Darley).

Within the literature, it has been identified that the most common characteristic associated with crime seriousness is the act's perceived consequences (Pfeiffer, Windzio & Kleimann, 2005). Thus the behaviour that is displayed during the commission of a crime, such as violence causing bodily harm is perceived as the most severe type of act, followed by property offences that may include property loss or damage (Stylianous, 2003). Therefore, violent crime such as assault or murder is seen as one of the most serious crimes (Herzog & Rattner, 2003). The less actual harm inflicted to the victim, the less seriously the crime is viewed, with the lowest seriousness ranking being assigned to crimes that are often termed as 'victimless', such as burglary (Piquero, Carmichael & Piquero, 2008). This therefore indicates that the harmful characteristics of a crime are directly related to its perceived seriousness (Herzog and Rattner, 2003).

Furthermore, research suggests the perceived seriousness of a crime, also has a corrolational impact on the sentencing goals seen as most appropriate (Piquero, Carmichael & Piquero, 2008). As the public's perception of the crime being serious increases, they will find the offender more culpable and thus deserving of a harsher sentence (Feather & Souter, 2002). This will subsequently lead to the endorsement of the punishment goal of retribution, and furthermore deterrence. More severe punitive punishments such as incarceration and retribution are attributed to those who committed murder. Incapacitation has also been found to be a prominent goal in sentencing those offenders found guilty of severe, violent crimes (Herzog, 2003; Piquero et al.).

In contrast, the literature shows that the rehabilitative principle is much more strongly endorsed for those offenders found guilty of crimes perceived as less serious such as burglary, which is identified as causing minimal to no physical harm to victims

(O'Connell & Whelan). The literature thus suggests that perceived crime seriousness has an important effect on not only the sentencing severity; but also on the sentencing principles seen as most appropriate (Tufts & Roberts, 2002). Public perceptions relating to the punishment of crime however have not only been found to be affected by the type of crime committed, but also by offender characteristics, one of the main one's being offender race (Kysan, 2000).

Effects of an Offender's Race on Sentencing

One of the largest obstacles to the fair, uniform treatment of offenders whilst sentencing is a phenomenon identified as racial disparity (Ferdinand & McDermott, 2002). Racial disparity in the criminal justice system exists when groups of minorities under the control of the system, are substantially greater than the proportion of these minority groups in the general public (Ferdinand & McDermott). There is clear evidence of negative racial disparity in sentencing which is reflected by statistics that show the level of over-representation of Indigenous Australians in custody during 2002 was an enormous 17 percent (Kwiatkowski & Smith, 2005). In both property and violent offence categories, Indigenous offenders are arrested at almost twice the rate non-Indigenous offenders.

Research conducted shows that minorities are arrested at a rate that significantly outweighs their number in the general population (Blagg & Morgan, 2004). This creates a large over representation of minorities under the control of the criminal system. It is important to note that minorities are over represented in the criminal justice system because they are punished more harshly for committing the same crimes than the wider population, and they are not actually committing more crime. Public opinion research primarily in the United States and England indicates that race does play an important role on the public's views regarding appropriate

sentences (Spohn, 2000). The literature has found that offenders belonging to a racial minority are not only more likely to be sentenced harshly, but their punishment is bound to be more punitive in nature (Staffensmeire, Ulmer & Kramer, 1998).

Research indicates that offenders belonging to a racial minority are more likely to be perceived as more dangerous than members of the general public, and furthermore they are seen as less reformable (Staffensmeire et al., 1998). This then leads to the public giving preference to the more punitive and less rehabilitative goals of sentencing. Race has been found to negatively influence verdict outcomes in terms of sentence length and the amount of culpability assigned to the offender, as well as influencing the severity of a sentence the public find most appropriate (Esqueda, Espinoza & Culhane, 2008). Therefore, race can essentially be identified as a negative characteristic which the public can discriminate against.

Furthermore, the literature shows that when the crimes are violent and result in actual physical harm to the victim, the preference for punitive punishments are highest, and affect of race is most likely to impact on the sentences the public view as most appropriate (Hurwitz & Peffley, 1997). It can therefore be concluded that an offender's ethnicity can potentially have a significant effect on public opinions regarding not only the severity of a crime, but also on the severity of a sentence imposed (Carlsmith, Darley & Robinson, 2002; Herzog, 2003).

Current Research

It is evident that Australian public opinion research relating to both sentencing principles seen as most important and, the sentencing of Indigenous Australians, is limited. Because this opinion can influence implementation of policies within the criminal justice system, there is a clear need to examine the public's views regarding the appropriate sentences for racially diverse offenders. Research on public opinions

largely based in the United States and England, has demonstrated that crime seriousness as well as race have an effect on both the severity of a sentence imposed as well as the sentencing principles seen as most important (Gromet & Darley, 2006). Due to the lack of Australian research, there is a need to adapted these findings to the Australian context, and to further establish how firmly grounded these ideals are in Australian society.

The current research aimed to not only shed further light on how the context surrounding the crime including the type of crime and the ethnicity of an offender influence these attitudes, but also if this has a further effect on the importance placed on various sentencing principles. This involved the exploration of whether the public would impose a harsher sentence if the type of crime was more physically violent in nature. Exploration was also aimed at how this would then impact on the sentencing goals the respondent would view as most important. Furthermore exploration of how race impacts the perceived severity of a crime was examined and whether this would then also have an impact on the sentencing goals the public viewed as most appropriate. Due to the over-representation of Indigenous Australians in Western Australian prisons (ABS, 2007), the offender's ethnicity that was manipulated within scenarios was Aboriginality.

The current study endeavoured to answer the following research questions; does the type of crime affect the perceived seriousness of a crime? Does the perceived seriousness of the crime committed influence the publics' attitudes regarding the sentencing principles they view as most important? Does the ethnicity of an offender affect the perceived severity of a crime? Finally, does the ethnicity of an offender influence the sentencing goals seen as most important by the public?

Method

Research Design

The present study employed a 2×2 (offender's ethnicity × crime seriousness) mixed design, in a quantitative research approach with opportunities for respondents to explain their ratings. This design then produced four experimental conditions. There was two independent variable with two levels, these were manipulated within four separate scenarios. These were the offender's ethnicity (either Aboriginal or Caucasian), and the type of crime (burglary or murder). The subsequent dependent variables were the severity of punishment the offender should incur as a measurement of the seriousness of a crime, and the sentencing goals seen as most appropriate, which were both measured using quantitative methods. The participants' responses explaining the severity of punishment imposed on the offender, and the sentencing principles seen as most important, were gathered using qualitative questions, and thus used to expand the understanding of the quantitative responses provided.

Participants

The current study sample was comprised of 107 participants. All participants were over the age of 18 years ($M = 36.0$, $SD = 16.1$). Furthermore, the summarised demographic information of the participants is illustrated in Table 1; the table compares these figures to the 2006 Australian Census data gathered by the Australian Bureau of Statistics (ABS, 2007a; ABS, 2007b).

Table 1

Table of Contrasts between the Population Demographic Information Collected by the 2006 Census and the Demographics Information Collected in the Present Study

| | 2006 Census | Research Data |
|--------|-------------|---------------|
| | GENDER | |
| Male | 49.4 % | 53.3 % |
| Female | 50.6 % | 46.7 % |

| | AGE | |
|-----------|--------|--------|
| 15-24 yrs | 13.6 % | 33.6 % |
| 25-54 yrs | 42.2 % | 50.5 % |
| 55-64 yrs | 11.0 % | 10.3 % |
| 65 + yrs | 13.3 % | 5.6 % |
| Median | 37 | 29 |

| | FAMILY INCOME | |
|--------------------|---------------|----------------|
| Yearly Income (\$) | 60 892 | 25 000 -75 000 |

| | HIGHEST EDUCATION | |
|-----------|-------------------|--------|
| Primary | 7.2 % | 4.7 % |
| Secondary | 42.2% | 23.4 % |
| TAFE | - | 29.0 % |
| Tertiary | 7.8% | 43.0% |

It is evident from this table that the sample is to an extent representative of the wider population, with a relatively equal distribution of gender, age, and income.

However, the current study sample is composed of a more educated cohort that has reached university level at a greater frequency than the general population.

Nevertheless, although stratified sampling was not an aim of the study, the sample composition successfully reflects the general population.

Participants were recruited by the primary researcher and a co-data collector, a fellow honours student. Recruitment was performed using the snowballing method, in which an initial group of participants was tested, and subsequently provided with up to 10 questionnaires which they were then asked to forward to further participants (Etter & Perneger, 2000).

Materials

An information letter was issued to all participants, a copy of which has been attached in Appendix C. Each participant was provided with two versions of a scenario in which the type of crime was manipulated, a copy of which has been included in Appendix A. The scenarios were centred on a single offender committing an illegal

offence and intentionally breaking the law, for which he was found guilty. The ethnicity of the offender was altered between participants. One questionnaire was provided to each participant that contained 10 questions in total, a copy of which has been attached as Appendix B. The first four questions were directly related to the corresponding scenario. Question one was quantitative in nature implementing the use of a Likert scale as a means of ascertaining the participant's response regarding the most appropriate sentence severity for the offender. Question three was a multiple choice question, to provide optimal options for the respondent. The question was regarding the sentencing goals the respondent sees as most important when sentencing the offender. Questions two and four were open ended and thus qualitative in nature, as the participant was asked to justify their rationale to the corresponding question. The final six questions gathered demographic information about the participant, including the respondent's age, gender, income bracket, and educational background to ensure a diverse sample population.

Procedure

Participants were recruited by the primary researcher and a co-data collector, a fellow honours student, with whom only the demographics and information letter were shared. Recruitment was performed using the snowballing method, in which an initial group of participants was provided with up to 10 questionnaires which they were then asked to forward to further participants. Each of these initial participants was supplied with an information letter detailing the aims of the study. A list of counselling services were also provided on the information letter, should any distress be experienced by the participants. Participants were then given the opportunity to ask the researcher questions. They were then randomly allocated to one of the experimental conditions and given the corresponding scenarios and questionnaire.

Once the participant completed the questionnaire they were then asked to recruit additional participants, the number of which was determined solely by the initial participant. They were then provided with the appropriate number of copies of each of the documents. The participants were instructed to contact the primary researcher using the contact details provided should they have any questions. No identifying information was kept on the forms, which were stored in a secure location in the researcher's place of residence.

Results

The quantitative data of the current study was analysed analysis using the computer statistical package SPSS version 15.0. A mixed design ANOVA was conducted on the answers to the question regarding the severity of punishment the offender should receive, as a measure of the seriousness of the crime. The performance of an ANOVA firstly identified Levene's test as not significant $p > .05$, therefore indicating that the assumption of homogeneity of variance had not been violated. Furthermore, in accordance with Field (2007), assumption testing was performed by screening and graphing the data. This illustrated that the data was normally distributed and both skewness and kurtosis did not produce significant values. The ANOVA indicated no main effect for ethnicity, and no main effect for the interaction. The ANOVA however found a significant effect of crime type, $F(1, 105) = 136.53, p < .05$, this demonstrates that the type of crime influenced the length of sentence the respondent would select for the offender, thus indicating a fluctuation in severity assigned to the two types of crimes. Further analysis identified that participants gave harsher sentences to offenders convicted of murder ($M = 5.52$), in comparison to burglary ($M = 3.97$).

The sentencing principles seen as most appropriate were analysed using Chi-Square. Two chi-square analyses were conducted between the four goals of punishment and the two independent variables, being type of crime and ethnicity. Both Chi-square statistics were not significant, therefore indicating that there was no significant association between neither the type of crime, nor the ethnicity of an offender, and the sentencing goals selected by participants as most important. Therefore no patterns of responses in either condition were found to be significantly different. In terms of frequencies, punishment was seen as the most important goal of punishment with 40.7% of participants endorsing it as their first preference. In both burglary and murder, punishment was seen as most important, with 34.6% of participants selecting deterrence for burglary and 46.7% of participants selecting the sentencing goal of punishment for murder as most important. The goal of sentencing that was viewed with the least preference was the goal of rehabilitation, with only 4.7% of participants selecting rehabilitation as the most important goal of punishment for burglary, and only 6.5% of participants selecting rehabilitation for murder.

Furthermore, in terms of frequencies, punishment was also the most frequently selected goal in both ethnicities with 41.8% of participants selecting deterrence for Indigenous offenders, and 39.1% of participants selecting deterrence for Non-Indigenous offenders. Rehabilitation was also seen as the least important goal of sentencing, with 7.4% of participants selecting rehabilitation as important for Indigenous offenders, and 3.3% of participants selecting rehabilitation for non-Indigenous offenders.

The textual responses given by the participants were analysed using thematic content analysis. Using this form of analysis allows for the identification of several prevailing themes from the responses gained from the participants (Liamputtong &

Ezzy, 2005). Question two asked the respondent why they would impose the specified severity of punishment on each type of crime. Thematic content analysis identified three overarching themes for murder, and two specific themes for burglary. The themes for murder were; physical violence, suffering of victim's family, and deprivation of freedom. The themes for burglary were identified as; no physical harm, and small amount stolen. The fourth question regarded the validation to why the responded chose such a sentencing goal as most important. Thematic content analysis did not identify any significant themes as all responses reflected the sentencing goals themselves. These were punishment, rehabilitation, individual deterrence and general deterrence.

Discussion

The current study aimed to use an Australian representative sample to investigate how public opinions can be affected by such variables as an offender's ethnicity, as well as the seriousness of a crime, and whether these findings were supported by the current body of literature in other countries. This was achieved by exploring whether an offender's ethnicity and the type of crime committed, influenced the seriousness participants would assign to the act, and the sentencing goals they would find as most important.

Does the type of crime committed affect the perceived seriousness of a crime?

Participants in the study were asked to indicate on a Likert scale the severity of consequences the offender should receive as a result of them breaking the law in some way. This was used as a measure of seriousness, and in addition with the textual responses provided by the participants, was taken to reflect the participants' views regarding the seriousness they would attach to the different crime types committed by the offender. Results indicated that there was in fact a significant effect of crime type of the severity of sentence a participant would impose on the offender. It is therefore

suggested that crime type does in fact have an influence on how severely the participant views an offence. More specifically, it was found that participants would allocate a greater sentence to offenders convicted of murder, as opposed to offenders convicted of burglary, which was viewed with less severity.

Textual responses further gave strength to this notion, and shed light onto why participants interperated the types of crimes in this way. The most common justifications of the sentence severity score given for the crime of murder, was that murder was a crime that ended another human beings life, several participants wrote that “the taking of someone’s life is the most serious crime”. Additionally, participants viewed murder as the ultimate suppression of a person’s freedom, and indicated that because the family of the victim would suffer greatly “murder is the most serious of crimes”.

Justifications for why burglary was significantly less serious indicated that many participants viewed it as an essentially a crime that did not physically injure a victim. Furthermore, participants indicate that the amount stolen was not a great deal and that physical possessions were replaceable. Despite acknowledging that the crime may have some form of psychological effect on the victim, participants believed this would not be a long lasting effect and thus the crime was not a very serious crime.

These results reflect those found in the literature regarding people’s perceived severity of varying crime types (Herzog, 2003; Stylianous, 2003; Tufts & Roberts, 2002). The literature suggests that factors surrounding a crime such as harm caused to a victim affect the perceived seriousness of a crime (Piquero et al., 2008). Therefore, behaviours displayed during the commission of a crime that are violent in nature and cause bodily harm, such as murder, are perceived as the most serious. In contrast, less severity is assigned to crimes that are often termed as ‘victimless’ by participants, such

as burglary, where there is no physical interaction with a victim (Herzog & Rattner, 2003). These results were reflected in the participant's responses in the current study, with lighter sentence lengths assigned to offenders found guilty of burglary, as opposed to more severe consequences assigned to offenders convicted of murder, both of which were further supported by the textual responses provided by the participants.

Does the perceived seriousness of the crime committed influence attitudes regarding the sentencing principles seen as most important?

The participants of the current study were questioned regarding what purpose the punishment of the offender should serve, by being asked to select one of four responses. These responses took the form of sentences, each of which reflected one of the sentencing goals; retribution, individual deterrence, general deterrence and rehabilitation. These pre-determined goals of sentencing were decided upon after careful examination of the literature. Individual and general deterrence were included as two separate responses as literature identifies that they are viewed as two distinct goals of sentencing (Piquero et al., 2008).

The responses provided by the participants reflected an overall preference (40.7%) for the goal of retribution as the most important purpose of sentencing. This was reflected in both crime types, however the preference in murder for the sentencing goal of retribution (46.7%) was slightly higher than in burglary (34.6%). The patterns of importance assigned to the goal of sentencing by participants in each crime type were identical, which was reflected by a non significant Chi-square. Following retribution, the goal seen as the next most important punishment was general deterrence, followed by individual deterrence, and finally the least importance was placed on rehabilitation (5.6%)

These findings somewhat reflect previous research which has found that the perceived seriousness of a crime has an effect on the sentencing goals seen as most important (Piquero et al., 2008). More specifically, as the participant's view of the crime's seriousness increased, they will find the offender more culpable and thus deserving of a harsher, more punitive sentence, favouring such sentencing goals as retribution, rather than rehabilitation (Herzog, 2003). In both crime types participants favoured the goal of retribution as the most important, and the goal of rehabilitation for the offender as the least important. This was further reflected in the textual responses which asked participants to justify why they found the sentencing goal they had chosen as the most important when deciding on the appropriate punishment for the offender. A common response for the punishment of murder, which was viewed as a serious crime, was that "there was no excuse for what he did". This reflects that the participant had in fact assigned blame on to the offender, and found it difficult to negotiate it.

Results of the current study found that preferences for sentencing goals between crimes did not vary, more punitive punishments such as retribution were given preference, whilst rehabilitation of the offender was not assigned a great deal of importance. This support for the retributive sentencing goal does not reflect the reignited focus on rehabilitative strategies by prison authorities and policy makers in Australia (Howells & Day, 1999). This discrepancy may serve as an indication that the policies regarding the punishment of offenders, and the emphasis placed on rehabilitation may not be accurately reflecting the public's views regarding the sentencing goals seen as most important. Several textual responses were provided by participants that serve to reflect this dissatisfaction with current policies include "offender get off too lightly", and "people these days are not punished hard enough". However, with the introduction of several mandatory sentence initiatives in the last

eight years in Australia, it appears that the shift in attitudes reflected by the public is in fact slowly being taken on board by policy makers (Tufts & Roberts, 2002).

Does the ethnicity of an offender affect the perceived severity of a crime?

The participants were again asked to indicate on a Likert scale the severity of consequences the offender should receive as a result of them breaking the law. In order to assess if the variable of ethnicity had an effect on this severity rating, the offender's ethnicity was manipulated in the scenario. The completion of an ANOVA indicated that there was no significant effect of ethnicity on the severity of sentence a participant would impose on the offender. It is therefore suggested that ethnicity of an offender does not have an influence on how severe the penalty imposed by a participant would be. Furthermore, using severity of sentence as a measure of seriousness, this finding can be extended to reflect participants' views regarding seriousness of a crime, which appear not affected by the offender's ethnicity. Textual analysis did not allow for any further conclusions to be made as to why the variable of ethnicity was not found to have a significant effect on sentence severity.

Research indicates that offenders belonging to a racial minority are more likely to be perceived as more dangerous and hostile than members of the general population, and are furthermore viewed as less reformable (D'Alessio & Stolzenber, 2003; Spohn, 2000; Staffensmeire et al., 1998). Consequently, the sentence imposed tends to be harsher as they are seen with greater potential to re-offend in the future (Hurwitz & Peffley, 1997). These findings were not replicated in the current study by the participants' responses. The participant's responses may reflect their knowledge of the existing racial disparities in sentencing and the additional problems faced by Indigenous offenders in the Australian criminal justice system (Blagg & Morgan, 2004). Because the study sample was composed of a more educated cohort than the general population,

this may have impacted on the results. Additionally, due to an increasing awareness of multiculturalism in Australian society (Chiswick & Miller, 1999), past racially biased views are slowly being reformed. Thus what once was reflected in participants' responses as racism, is no longer the case, with participants being aware of the offender's ethnicity but not using it as a variable to increase the severity of their sentence.

Does the ethnicity of an offender influence attitudes regarding the sentencing goals seen as most important?

As stated earlier, participants were questioned regarding what purpose the punishment of the offender should serve, by asking them to select one of four previously determined responses. These were the same for the scenarios depicting offenders of varied ethnicities. The responses provided by the participants reflected an overall preference (40.7%) for the goal of retribution as the most important purpose of punishment. This result was reflected for both Indigenous and non-Indigenous offenders; however the importance placed in retribution for Indigenous offenders (41.8%) was slightly higher than for non-Indigenous offenders (39.1%). This finding was not found to be statistically significant. The patterns of importance assigned to each goal of sentencing for both Indigenous and non-Indigenous offenders were identical, which was reflected by a non significant Chi-square. Following retribution, the next sentencing goal viewed as most important was general deterrence, followed by individual deterrence, then individual deterrence, and finally the least importance was placed on rehabilitation (5.6%).

These findings therefore do not reflect previous research which has found that ethnicity of an offender has an effect on the sentencing goals seen as most important (Piquero et al., 2008). As reflected in the literature, offenders belonging to a racial

minority are perceived as more dangerous and less reformable, thus resulting in participants giving preference to more punitive sentencing goals such as retribution and less rehabilitative goals (Esqueda et al., 2008). However due to this finding not being statistically significant in the current study, this connection to Australian population could not be made. As mentioned earlier, the emphasis on multiculturalism, as well as a push towards the implementation of racial vilification laws in each state has resulted in racial tensions dispersing amongst the public (McNamara, 2002), this disparities in sentencing of Indigenous offenders has however in the past been an important issue in Australian society, thus the overwhelming responses of participants supporting the retributive sentencing goal for Indigenous, as well as non-Indigenous offenders, could be a reflection of this.

Conclusions drawn from the study

The results of the current study have indicated that the type of crime committed does impact on the severity of consequences participants would impose on an offender. Subsequently, the seriousness with which a crime is viewed depends on the type of crime committed, with more severe ratings assigned to those crimes that cause actual physical harm to a victim. Furthermore, results also reflect participants' views regarding the most important goal of punishment as retribution and thus reflecting a desire to make the offenders pay for the wrong doings against society that they have engaged in. The importance placed in this goal does not change as perceived seriousness increases. Rehabilitation is seen as the least important goal of sentencing thus reflecting a cohort that is more punitive in nature, with retributive ideals.

In contrast, results indicated that the variable of ethnicity does not have an effect on the participant's responses regarding the severity of a crime. This was also the case for the sentencing goals participants identified as most important such as

retribution, which did not change when the offender's ethnicity was manipulated.

Therefore ethnicity was not view as a factor that would influence a participant's ratings of severity or the sentencing goals they find most important.

Limitations in the Current Research

The current study used a relatively basic vignette that included limited detail about both the offender, and the context of the crime. Provision of such limited scenarios may have affected the participant's ability to make an informed decision about the offender's punishment. This was supported by the qualitative analysis which gathered comments such as "I would have to know more about the circumstances surrounding the crime to make a proper decision". However a short, succinct vignette was decided upon to control for any potential confounding variable, furthermore providing fewer details also provides results that are easily replicable as well as consistent with previous research (Herzog, 2003).

A shortcoming in the methodology of the current study was the process by which participants were recruited. Despite being a popular method of data collection, the snowballing method is unlikely to result in a completely random sample that is statistically representative of the wider population (Fitzgerald & Cox, 20002). This may result in a compromise of the external validity of the findings, and as a consequence care must be taken when interpreting results (Martin, 2004). By having two separate researchers who were each responsible for distributing half of the questionnaires through recruitment of several participants, the effects of this shortcoming were minimised by ensuring a wider demographics range. Furthermore, by comparing these figures to the 2006 Australian Census data, it is evident that the sample is representative of the greater population, with a relatively equal distribution of gender, age, and income (ABS, 2007a; ABS, 2007b). However, it should be noted

that the current study sample is composed of a more educated cohort that has reached university level education at a greater frequency than the general population.

One limitation of the current study was the way in which the questionnaires were presented once combined with the fellow researcher's forms. When each scenario is presented on a separate page and the order they are presented in, has been found to act as a potential shortcoming of research designs (Stylianous, 2003). Both researchers' questionnaires were highly similar in nature, with only a limited number of variables that were manipulated by each researcher. Both questionnaires were placed in the same booklet and given to the participants. Upon the completion of the thematic content analysis, it was identified that some participants had in fact struggled to distinguish the two questionnaires as separate documents. Responses such as "same as previous page" and "refer to previous page" suggested that some participants viewed the scenarios as identical and thus provided the same answers for both scenarios. This could suggest that participants may not have considered each scenario individually, which could potentially result in invalid answers. Thus the current study aimed to neutralise these effects by placing the questionnaires in random order. Furthermore, because the fellow researchers' questionnaire contained not only two scenarios, but also a one page, double sided empathy questionnaire, this was placed between the two researchers' scenarios in order to allow participants to view the following scenarios separately. These limitations, despite being incorporated in the interpretation of the results, allow for the opportunity for further research that incorporates a greater, more randomised sample, with vignettes of varying length.

Areas for Future Research Identified by the Current Study

An area of future research could be aimed at exploring the effects of varying demographics ranges that were not explored in depth in the current study. Firstly, the

effects of a more educated research cohort on participant responses could be explored. This would involve an analysis of whether a less educated cohort would attribute more or less seriousness to each type of crime, and whether the offender's ethnicity would then become a significant variable in participants' severity ratings, and the sentencing goals they view as most important. Additionally, the inclusion of more racially varied research population, especially one that was comprised of a greater number of Indigenous participants could provide varied results to those attained by the current study. Of further interest could be to have a sample composed entirely of Indigenous Australians who may provide some alternative points of view to the general population, especially in textual responses.

The current research has demonstrated that crime seriousness has an effect on perceived severity of a crime and the length of sentence given. However, the disparity between the current findings that identify race as a variable that does not exert any influence over the seriousness rankings assigned to a crime, and previous findings that find contrary results, creates a clear need for more Australian studies. Thus adapting these findings to an Australian context using a greater population sample, future research would further establish how firmly grounded these ideals are in Australian society, and identify how the public could be educated or informed to change these negatively influencing attitudes. Furthermore, future research should focus on how education and generally informing the public of the actual trends and context surrounding certain crimes, would impact on the society's fear of crime and thus if this would have a further affect on the importance placed on the various sentencing principles. Due to the general lack of research in the Australian context, and the significant effect of these opinions on policy makers, the need to further educate and thus empower the public is necessary.

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Appendix A

Scenario 1 (Indigenous offender and crime committed is murder)

On the 23rd of March 2007 Paul, an adult Indigenous male, was arrested for shooting another male and killing him. He was subsequently tried and found guilty of the crime of murder.

Scenario 4 (Indigenous offender and crime committed is burglary)

On the 23rd of March 2007 Paul, an adult Indigenous male, was arrested for breaking into an empty house and stealing \$300 worth of furniture and electrical equipment. He was subsequently tried and found guilty of the crime of burglary.

Scenario 2 (Non-Indigenous offender and crime committed is murder)

On the 23rd of March 2007 Paul, an adult Caucasian male, was arrested for shooting another male and killing him. He was subsequently tried and found guilty of the crime of murder.

Scenario 3 (Non-Indigenous offender and crime committed is burglary)

On the 23rd of March 2007 Paul, an adult Caucasian male, was arrested for breaking into an empty house and stealing \$300 worth of furniture and electrical equipment. He was subsequently tried and found guilty of the crime of burglary.

Public Opinion Survey

As part of your participation you are asked to read the below scenario, and then answer the questions that follow.

Scenario

** for a copy of the four scenarios please refer to Appendix A **

Questions

- 1) Now you have read the scenario, please place a **cross** on the scale regarding your opinion on how severe the punishment the offender receives should be.

|-----|-----|-----|-----|-----|
Minimal penalty allowed by the law *Maximum penalty allowed by the law*

- 2) Why specifically do you think the sentence should be this severe or not severe?

- 3) Place a **circle** around the answer that you feel is most important when sentencing this offender.

- A So that others are persuaded not to commit similar crimes
- B To punish the offender
- C To prevent the offender from committing more crime
- D To provide the treatment with opportunity to get treatment

- 4) What influenced your opinion regarding the reasons you found most important when sentencing the offender?

**This is the end of the questionnaire, thank you for your participation.
General information about the person who has completed this questionnaire**

Please be advised this questionnaire is completely anonymous. Please do not record your name anywhere on the answer sheets.

Your assistance in providing the following information would be greatly appreciated, as it will allow me to demonstrate that we have collected a wide range of participants from various social and demographic backgrounds.

- 1) To allow us to establish we have surveyed people from a varied age group, please advise your **age** _____
- 2) To allow us to establish we have surveyed people from both genders, please advise us of whether you are **male or female** _____
- 3) To allow us to establish we have surveyed people from varied economic circumstances, please circle the amount that best represents **your annual family income**.

| | |
|---|--|
| A less than \$25 000 | C more than \$75 000 but less than \$100 000 |
| B more than \$25 000 but less than \$75 000 | D more than \$100 000 |
- 4) To allow us to establish we have surveyed people from varied **educational backgrounds** please circle each answer that applies to you.

| | |
|---|---|
| A I have completed primary school | C I have completed/completing a TAFE certificate |
| B I have completed/completing high school | D I have completed/completing a university degree |
- 5) To allow us to establish that we have surveyed people from varied **employment backgrounds** please circle which answer applies to you.

| | |
|--------------|-------------|
| A Unemployed | C Part-time |
| B Casual | D Full-time |

Please specify your job type: _____

- 6) To allow us to establish we have surveyed people from varied **ethnic backgrounds** please circle which answer applies to you.

| | |
|--|--|
| A Australian | C Indigenous Australian/Torres Strait Islander |
| B Immigrant – if b) please specify your country of origin: _____ | |

This completes your participation, thank you again for your input, it is greatly appreciated.



Appendix C

Participant Information Letter

Dear Participant,

We are currently completing a research project as part of an Honours degree in Psychology at Edith Cowan University. We have chosen to undertake research projects that will assess public perception towards crime. This study has been approved by the Faculty of Computing, Health and Science Ethics Committee.

Please be aware that your participation in this study is both optional and voluntary. Should you choose to participate in this study, your responses will be completely confidential. You are free to withdraw from the study at any time, before submitting your questionnaire. If you complete and return this survey, your consent to participate is implied.

This study will ask you to complete two questionnaires based on crime perception. For both questionnaires you will be asked to read crime scenarios and answer questions relating to the scenarios. There is also a short section in which you will have to record some information about yourself. In total, the questionnaires should take you approximately 15 minutes to complete.

Although the content of this study should not distress you in any way, we have included the contact details of health care services below to contact should you feel distress regarding your personal opinions being asked.

Crisis Care – Ph: (08) 9223 1111
Lifeline – Ph: (08) 131 114
The Samaritans – Ph: (08) 9381 5555

If you have any further questions regarding this study, please do not hesitate in contacting our supervisors, an independent member of the faculty, or us:

Associate Professor Denise Charman

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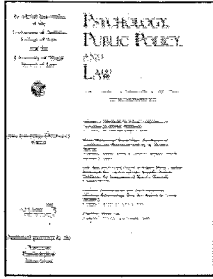
Thank you for your time and consideration. It is greatly appreciated.
 Andrea Kysely and Giselle Larkins

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Guidelines for Contributors by Authors for Literature Review



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