

# PUBLIC OPINION, PUNISHMENT AND CRIME

Some notes on a survey approach

---

Roderic G. Broadhurst

A MONOGRAPH SERIES



UNIVERSITY EXTENSION



*First published in 1982 by  
University Extension  
University of Western Australia*

This book is copyright. Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced by any process without written permission. Inquiries should be made to the publisher.

R.G. Broadhurst,  
© University Extension 1982  
The University of Western Australia

ISBN 0 909704 41 4

*"The descent to hell is easy  
The gates stand open day and night  
But to reascend the slope  
And escape to the upper air  
This is labour ....."*

- Virgil, The Aeneid.

This research monograph is supported by a grant from the Criminology Research Council of Australia. The views expressed are the responsibility of the author and are not necessarily those of the Council.



C O N T E N T S

	Page No.
<i>Preface</i>	<i>i</i>
CHAPTER ONE Public Opinion and the Law	1
CHAPTER TWO Public Opinion and Crime: A Survey Approach	19
CHAPTER THREE Punishment and Public Opinion	49
CHAPTER FOUR Research: Attitudes to Crime, Moral Indignation and the Importance of Being Informed	73
CHAPTER FIVE Criminal Justice and the Community	105
APPENDIX	129
BIBLIOGRAPHY AND REFERENCES	172

P R E F A C E

My interest in public attitudes to crime and punishment developed during the several years that I have worked in the prison service. I became increasingly curious about how the general public felt about the justice system and in particular the uses of punishment. The frequent recommendations for change or objections to change in the prison system were often premised on notions that insisted that, *"the public won't stand for it!"* or *"the community demands this!"* These rather vague references to some tangible community standard which prohibited or promoted some action seemed to me to require some investigation.

Some year years ago I had the opportunity of commencing such an investigation and with the help of the Australian Criminology Research Council and University Extension, I began with a small exploratory population study of public attitudes to crime. The results of this study and the remarkable responses I received from a great number of people following the release of the data prompted me to follow up the earlier work with another survey. Having, by dint of asking the community how they felt about the courts, prisons and police, found myself placed in a position of some 'controversy' I felt it most pertinent to return to them for more advice. This monograph I hope attempts faithfully to present what little I now know of our community's hopes and fears about justice, crime and punishment.

I have begun by recapping the work of earlier writers who have explored the theoretical and underlying principles of public opinion and the law. I have then moved on in Chapters Two and Three to examine enumerated public opinion and some of the 'facts' of our crime experience.

In Chapter Two I have emphasised the importance of adequate review of policing. In Chapter Three I have tackled the contemporary theoretical base of public opinion and criminal law, a subject generally reported in an atheoretical way, there the theoretical emphasis is on the process of the law, information and public opinion. In Chapter Four the question of misinformation and opinion is examined in an empirical quasi-experimental way. While conclusions at this level can be misleading, avenues for endeavour are much clearer. To conclude I have reviewed the relationship between the public, the police courts and prisons. I have also taken the liberty in the final chapter of making some suggestions about how we might seek to change our approach to crime. For these I alone accept any blame.

It has become quite fashionable in some research circles to insist that the researcher must identify his credentials, his biases, prejudices and his political beliefs in order to alert the reader to some failings in objectivity. I undoubtedly have such biases and the work presented here, like most research that involves the study of ourselves, is not 'value free'. I hope however, that where I have ventured into subjectivity the nature of my beliefs are aptly apparent.

It is also now regarded somewhat 'passe' on completion of some research for the researcher to recommend yet further research. I reject any coyness in regard to this matter and unreservedly assert that a great deal more work must be done. For as Hazel Erskine observed after a comprehensive review of American research (1933-1975) in public attitudes to crime, that the whole subject is in utter 'disarray', that our understanding of community attitudes and response to crime is poorly documented and analysed. I heartily endorse this view and hope that

this contribution has not confounded this very apparent 'disarray'.

In addition, I have been most conscious to avoid what Michael Foucault has called the 'chatter of criminologists' and the propensity for researchers to trivialise their subject matter in the quest for empirical purity.

Finally, there are a great many people to whom I am extremely grateful and without their willing assistance this work could not have been done and to whom no error is to be attributed: to David Indermaur, my thanks for his stimulating ideas, contribution to design and thoughtful criticisms of earlier drafts of the research; to Richard Harding, my very grateful appreciation for guidance, encouragement and that delightful definition of criminology, 'applied pessimism'; to David Biles for his support, encouragement, kindness and assistance; to my statistician, Ross Maller, my eternal gratitude for making a near non-numerate comfortable with the mass of data and for his unflappable insistence on simplicity; to Yens Breckling, my thanks for computers, programming, advice and friendship; to the Planning and Research section of the Prisons Department; to Peter Seaman and my fellow workers at University Extension, how can I ever repay you? - thanks for your support, encouragement, friendship and professionalism to my remaining friends in the prison service who still find me acceptable, my grateful thanks for all you have taught me; to the 530 odd random distinct citizens of this state, my grateful respect for your efforts with the questionnaire; to Polly Edwards, Irene Porylo, Helen Hay, Jocelyn Sylvester, Mary Allan, Morag Bennett and Victoria Kent, your patience is magnificent; finally, to Robyn, Cris and Jamie, my love and apologies for so many absences.

R.G. BROADHURST

CHAPTER ONE

PUBLIC OPINION AND THE LAW

In the following discussion the focus is on what relation public opinion as such should have with law and government. It is an important question to be addressed. At a time when so many changes to society engage our attention we are apt only to regard the role and function of public opinion in our societies and communities as a double-edged sword.

We both fear and seek it, for as Hume writes *"force is always on the side of the governed, the governors have nothing to support them but opinion. It is therefore, on opinion only that government is founded; and this maxim extends to the most despotic and most military governments, as well as to the most free and popular."*<sup>1</sup> It is thus not surprising to note the efforts extended to control and monitor opinion. A fundamental law making society preserves its continuity and dynamism from the enumeration of the current opinions.

The issues remain unchanged except in degree; conflicts about the purpose of law and law making, 'community' and individual opinions have distilled into principles. *"The object of this Essay"* wrote Mill in 1859 *"is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used by physical force in the form of legal penalties, or the moral coercion or public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warranty. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him,*

but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign."<sup>2</sup> The consequent concerns for many of Mill's contemporaries were to minimise the burdens of government and the associated varieties of sanction taxations.

As Dicey (1905,1914) confirms a process of inference, influence and intrinsic worth as well as wide agreement is the catalyst for turning opinions into acts of will operationalized in legislation and law; commenting on the force of Mill's he writes, "*It gave logical expression to convictions which, though never followed with perfect consistency, were shared by the wisest among the writers and statesmen who, in the Mid-Victorian era, guided the legislative action of Parliament.*"<sup>3</sup>

Mill's '*simple principle*' has and continues to be a profoundly influential if moot opinion. Since early democracy the belief that opinion, 'public opinion' was truly represented in elections and referendums has competed against the 'reality' of party systems and the 'education' of the people.

The study of public opinion by necessity involves a consideration of the role of the State. Essentially the subject of opinions in relation to law is a political study. Government it is said, since the time of Locke and Hume, has rested on opinion; and justice, the making, administration of and unmaking of laws is an exercise in government. It is important also to recognise that the function of the judiciary is that of a branch of government; its strength as a dispenser of justice rests on conventions (customs) and tradition that preserve the '*myth of impartiality*' (Griffiths 1977). The importance and force of public

opinion has long been recognized as an influential legitimating process in law. In recent times the plethora of polling has rightly led us to reconsider the inferential theories of the past which are the considered maxims of practice. Dicey in his classic Law and Opinion in England (1905), establishes the importance of opinion to good laws and he also provides aptly the concern from a constitutional view *"the time has come when the fact ought to be generally admitted that the amount of government, that is coercion, of individuals or classes by the State, which is necessary to the welfare or even existence of a civilized community, cannot permanently co-exist with the effective belief that deference to public opinion is in all cases the sole or the necessary basis of democracy."* <sup>4</sup>

In no sense does the traditional view underestimate the value and importance of public opinion. However, the conservative was always to view the advent of universal suffrage and mass public opinion as a mixed but nevertheless necessary blessing. As Dicey observed 'good or wise laws' are the purpose of government and they can and should be balanced by the weight of public opinion for sometimes *"the evils of the enforcement may far overbalance the good effects of legislation in itself wise."* <sup>5</sup> So that laws always should, *"be 'wise' and also be in conformity with the demands of public opinion, or in other words be 'popular', or at any rate not unpopular."* <sup>6</sup> Of course concern at the turn of the century was viewed from the consequence of newly applied franchises, the eclipse of the utilitarians epitomised by Bentham and the panopticon and the relative decline of John Mill's individualistic morality, which turned opinion toward a collectivism in laws, albeit Fabian in mode.

Sagely conservatives such as Dicey predicted that referendums rather than party political systems representing electors would operate more powerfully against change. Certainly the failure of referendums to introduce change is well documented in Australian Constitutional history. Thus the fears of De Toqueville and Maine became instead an instrument



of counterbalance: change could be checked by the feelings and opinions of the governed. In any event the revolutionary social changes wrought throughout the 19th century manifested more efficient and effective disciplines, controls and more adept mechanisms of government which mitigated against any dominance of mass opinion or 'majority' rule. Even so, these political inventions fell behind social inventiveness. The rule of law became paramount. Yet observers such as Dicey believed there had been a decline in reverence for law, distrust of judges and of courts, more lawlessness and a growth in '*droit administratif*'. Apparently such concerns transcend time and place.

The exercise of law had unpredictable consequences - frequently authority was jeopardized, law quickly became more safely and quietly exercised behind walls. The nineteenth century festival of the chain gang was after all a public activity; *"groups of enraged spectators hurled insults at Delacollonge: 'Down with the priest' they said, 'down with that hateful man, he should have got his deserts.' Without the energy and firmness of the municipal guard, serious disorder could have taken place. At Vaugiraud it was the women who were the most angry. They cried 'Down with the wicked priest! Down with the Monster Delacollonge.'* The police inspectors of Montrouge and Vaugiraud and several mayors and deputy-mayors ran the gauntlet on their attempt to enforce the decision of the courts."<sup>7</sup> So it is against the historical experience that a recognition and symbol of the judicial function became also the somewhat distanced expression of orderly opinion which Michel Foucault describes as a discipline of opinions and an 'economy of punishment'. It is partly our historical picture of public attitudes to crime that has led to its characterization as severe and savage. A review will show that both the quality and virtue of unpredictability in public opinion has significantly driven away the spectacle of justice and encouraged law making to strive for a modicum of protections and an economy of punishment. Utilitarian values dictated it and a century or so on the relevance of public opinion

has not diminished and indeed grown more complex with changes in productive and educative forces within society.

It is certainly a truism that laws foster and create opinion and develop law making opinion and proceed, with *'unexpected slowness'* yet they are opinions of the day balanced by counter opinions. The thrust of the administration of law ought to be from the contemporary view of Lord Devlin (1972), a question of consensus . *"In theory the judiciary is the neutral force between Government and the governed. The judge interprets and applies the law without favour to either and its application in a particular case is embodied in an order which is passed to the executive to enforce. It is not the judge's personal order; it is substantially the product of the law and only marginally of the judicial mind. If its enforcement is resisted or evaded, the judge is no more concerned than if he were an arbitrator.*

*British judges have never practised such detachment. The reason may lie in their origin as servants of the Crown or perhaps in the fact that for a long time the law they administered was what they had made themselves. A mixture of the two has left the High Court with the power to enforce its orders in civil cases by treating disobedience as contempt itself.*

*In the criminal law the judges regard themselves as at least as much concerned as the executive with the preservation of law and order. Then there is what can best be described as the expatiatory power. Whereas under most systems the judgment is formal, brief and to the legal point, the British judge may expatiate on what he is doing and why he is doing it and its consequences; and because of his prestige he is listened to.*

*These high powers make the British judiciary more than just a neutral arbitral force. On the whole their wise and cautious deployment has enabled the judiciary to use its reputation for impartiality and independence for the public good. But it is imperative that the high*

powers should not be used except in support of consensus law. If the judges are to do more than decide what the law means, if they are also to speak for it, their voice must be the voice of the community; it must never be taken for the voice of the Government or the voice of the majority." <sup>8</sup> It is hard to imagine on what basis (except perhaps tradition) the judiciary might arrive at some understanding of a consensual view of how to act. They find it difficult enough as any cursory knowledge of the High Court of Australia will show, to reach consensus on law themselves without considering some second guess procedure to ascertain the consensus view of the communities they serve.

However, John Griffith (1977) has argued that the nature of the judiciary is essentially political in any case and the marxist view - a view long taken by radical critics - and most strongly argued in Critical Criminology (1975) by Taylor, Walton and Young<sup>9</sup> distils to the blunt slogan "the rule of law is only another mask for the rule of the class"<sup>10</sup> Yet Lord Devlin wished above all to see judicial review "preserved as a weapon against arbitrary government" and was conscious "that its efficacy depends upon the goodwill of Whitehall."<sup>11</sup> It is impressive that Lord Justice Scarman in advocating a Bill of Rights did so for the same mixed feelings that Dicey advocated and favoured the referendum. Add to this the extent of judge made law and the occupational cultures that judges and other law enforcers exist in inevitably place limits on their ability to represent public opinion.<sup>12</sup>

The same kinds of dangers befall scientific thought and action; naturally enough the influence of scientific opinion has had a telling influence on the character of law and public opinion. Arthur Fink's (1938) important review of the biological causes of crime, concludes;

"Ideas, as J. B. Bury has said, have their intellectual climate. Theories of crime causation in the 19th century did not develop in isolation or in a vacuum. Their cultural setting included advancements in biology,

*in medicine, in psychiatry, in psychology, and in sociology. In these disciplines were found the scientific or quasi-scientific explanations of man, his body, his mind, his actions, his society. It was inevitable that man's behavior - especially his criminal behavior - should come within the province of specialists in these fields."*<sup>13</sup>

Twenty years on this maturing view of crime causation was still linked with concern about how to make sense of legal punishment, as Gresham Sykes (1956) writes *"Facile arguments explaining crime in terms of any single factor are obviously dissatisfying. We wish to predict, control, and understand many different aspects of criminal behavior and there is no one explanatory variable which will suffice. Certainly one of the necessary steps in unravelling the causes and consequences of criminality is to recognize that the social and psychological factors underlying one type of crime may differ from those of another. Since all types of offences do not represent equally serious violations of the norms, either in the eyes of the individual who commits them or of the social group to which he belongs, it is essential to distinguish crimes on the basis of the injury they inflict or the indignation they arouse."*<sup>14</sup>

In an interesting footnote Fink alludes to the institution of imprisonment as an eventual tool of science, yet Foucault would argue the prison model was very much a product of practical sciences and their disciplines.

As Fink observes

*"It should be noted that much of the early work of psychiatrists was custodial in nature. Many psychiatrists, compelled by the prevailing culture setting, were more often keepers than clinicians. Detention and custody preceded study and research. Several hospitals which were first founded around 1750 were not utilized for research until over three-quarters of a century after their establishment. Similarly asylums,*

founded around 1800, were not used for clinical purposes for another three-quarters of a century. It is common knowledge that the primary emphasis in prisons for the first century and a half of their existence has been custodial. Will the experience of hospitals and asylums some day be followed by prisons?"<sup>15</sup> Fink goes on to identify the principle catalyst for the changes in the public view of the criminal.

"In America it is possible to recognize the tremendous concern of the judiciary, of prison administrators, of the lay public even, over the question of culpability - that is, criminal responsibility. Psychiatrists and other physicians were responsive to this concern, as reflected in their work and publications of the past century. Refinement yielded to still further refinement, nosologies comprising hundreds of mental disorders were broken down to simpler systems, but throughout them all ran a common recognition of the need to differentiate, wherever possible, the mentally diseased from the criminal."<sup>16</sup>

This view is contrasted with the contemporary view of the place of the medical model and imprisonment or correction.

Jones (1981) writes "that crime is a social and not an individual problem ... Its correction cannot be attempted in total isolation from the society out of which it emerged. That correction in the past has not recognized this accounts for the belief of anti-correctionalists that it is based on a false analogy with medicine, in which criminality is seen as requiring the application of psychological methods of re-education, or even treatment, to the individual offender. Such an assumption is not necessary to the correctional position - indeed is not compatible with the broad social orientation which current knowledge in the field dictates. To criticize correction on the grounds that it can only be a form of individual treatment is to construct your own Aunt Sally

*in order to have something to aim at."*<sup>17</sup>

Indeed the evolving and developing humanist positive creed described by Fink is supported by its most spectacular failures. The confidence of science and scientific methodology, as a persuasive plausible moderator of opinion remains. Fink's final paragraph illustrates the importance of positivism.

*"By 1915, a more scientifically adequate understanding of crime causation was possible. We had come a long way from the time when the madman was indistinguishable from the criminal, from the time when it was held that the shape of the skull or of the brain determined criminal or non-criminal behavior, from the time when it was believed that there was a fixed criminal anthropological type, from the time when it was maintained that individuals inherited crime through the germ plasm, from the time, even within our own day, when it was asserted that every feebleminded person was a criminal or a potential criminal.*

*Today we believe that criminal behavior indicates a difference, a difference not of kind, but a difference of degree. Today we have better resources for understanding the meaning of crime and the criminal; we stand ready to conceive of the criminal as a biological product as well as a product of the environmental forces around him ... Modern criminological research now reveals him not as a composite of traits, which when added together become the criminal personality, but rather a functioning, integrated personality."*<sup>18</sup>

While the scientific community may have concluded by the 1930's that biological causes of crime had given way to environmental and situational explanations public opinions remained firmly entrenched in the previous generation's explanations. A 1937 (January 13 - 18) Gallup poll illustrates; in response to the question *"Do you favour sterilization of habitual criminals and the hopelessly insane?"*,

72% of respondents were in favour, 14% were opposed and 14% had no opinion; and, in a 1937 (July) poll conducted by Roper for 'Fortune' magazine the response to the question *"Some people advocate compulsory sterilization of habitual criminals and mental defectives so that they will not have children to inherit their weaknesses. Would you agree with this?"* resulted in 63% approving sterilization for habitual criminals and 66% approving similar action for mental defectives. <sup>19</sup>

A contemporary view of public opinion sees it as eclectic and inconsistent.

*"In Practice"* writes Jones (1981), *"both the judges and the public utilize whichever retribution, prevention, deterrence and rehabilitation suits them at any particular time. If punitive feelings have been aroused in them, they can be prudently deterrent and then, if this is shown to be untenable, return to being righteously moral, saying: Well, he deserved it anyway. If they are afraid, they can insist that the criminal be locked up for a long time, while if their sympathy is aroused they will want to do something to help him. This is a largely unconscious process and, if unchecked, can make the development of a correctional policy almost impossible. In particular, it has to be understood that if we try to combine more than one of these aims in a single sentence we usually achieve none of them"*. <sup>20</sup>

The behaviour of judges and the legal profession has been explained in terms of their attachment to the practice of government and the rule of law. As well the sociology of law parades lawyering and judicial behaviour as operating from imperatives of control, supervision and order with some peculiar traits distilled from tradition and medieval metaphysics.<sup>21</sup> Independence if only symbolic, is a source from which judicial authority is constantly maintained and this has encouraged the judiciary to withdraw from the intensity of public opinion and

feeling in order to escape the tyranny of the masses for the dubious protection of class and profession. Yet the weight of the law bears with it the creation of a law making opinion permitting ever increasing extensions of the rule of law. Reference to public opinion in an orderly political way has been channelled into parliamentary representation and not checked by a process of referendum as Dicey and other conservatives had hoped. Constant reference to public opinion was the hoped-for further check on the restraints and excesses of party parliamentary government left precariously balanced it is believed only on the conventions and 'horsetrading' of party politics. The function of public opinion was to cement the gaps in the checks and balances provided in Bagehot's 'ideal' constitution. The judiciary as the third wing of State was the pivotal check and balance, the ultimate protector of excesses of opinion or of the executive, but sufficiently 'noblesse oblige' to recognise genuine sentiments.

Dicey's purpose remains today just as appropriate as it did when he aimed *"to exhibit the close dependence of legislation, and even the absence of legislation, in England during the 19th century upon the varying currents of public opinion."* Yet Dicey was careful not to be subsumed.

*"The fact of this dependence will be assumed by most students with ever too great readiness. We are all of us so accustomed to endow public opinion with a mysterious or almost supernatural power, that we neglect to examine what it is that we mean by public opinion, to measure the true limits of its authority, and to ascertain the mode of its operation."* <sup>22</sup>

Of course we have a good deal still to learn about opinions and attitudes and while attitude studies have been the mainstay of much social psychology research an understanding has not passed to any theoretically dominant view.



Studies in attitude change <sup>23</sup> have formulated learning, attribution, consistency and personality based notions at the heart of which lies an equivocal view of the importance of information and the core controversy of propaganda. More succinctly this may be put as a concern in scholarly study of the uses of information and public opinion by governments or sectional interests. The relationship is certainly symbiotic in the same way that Foucault describes, in a system of illegalities (and moral indignation), the relationship between police, prison and delinquency is intricately interdependent.

In the area of legal punishments the prevailing opinion has been confounded by the twin divisions of what is legal and what is illegal and between illegalities and delinquency. We are led to this difficulty by the propensity of legal, scientific and medical opinion that has highlighted "crime" as a pathological state of mind, the consequence of the disciplines of technology and the fashions of the time. Foucault presents the problems of crime control and law as continuous self seeking principles and notes that for *"the observation that prison fails to eliminate crime, one should perhaps substitute the hypothesis that prison has succeeded extremely well in producing delinquency, a specific type, a politically or economically less dangerous - and, on occasion, usable form of illegality."* <sup>24</sup>

This process need not have an insidious purpose. The relationship between the various economies of punishment (taxation, fines, forfeitures, bonds, punishment, illegal trade and dubious financial practices often spectacularly illustrated in numerous reports examining the activities of all forms of organized crime and contraband,) and the political forms of public opinion are at best an orderly and selective process; the direction of selection determined by restraints on resources, knowledge and traditions. The law of punishments is a taxation on moral and temporal values modified by changes in the law makers, their sources of opinions and the structures of their affairs.

Public response to crime has become partly invisible, as has the observation of punishment, it has become fictionalized, and trivialized by the drama and theatre of the day as it was in the popular novels and broadsheet versions of the last century.

*"To this was added a patient attempt to impose a highly specific grid on the common perception of delinquents: to present them as close by, everywhere present and everywhere to be feared. This was the function of the 'fait divers', which invaded a part of the press and which began to have its own newspapers." 25*

When we thus examine public opinion and community attitudes we do so through a screen of information which provides material for the subjective severity of opinions about criminals and offensive behaviours. We know that constant and repetitious messages are stock tools of propaganda and that information about crime is conveyed in such ways. The persuasiveness of ideas, popularized, scientifically explored (misunderstood)<sup>26</sup> and effectively dramatised through varieties of information can become so predominant that 'public' opinion pressures presumptively on law and the selection of illegal acts. Some human behaviours are defined criminal, others are not; most often interest determines what is legal and what is not. Perhaps this is why the value attached to discretion in law and enforcement and punishment has exercised a fascination for critics of systems of law and order. Discretion however is the single element of authority at which opinion, public and private has its play. Characterizations, labels, stereotyping, rigidity, the priority of certain values over others are the products of opinion and discretion, yet the abandonment of discretion may be more feared than its curtailment.

The conflict has illustrated itself through our views of the court, here opinion and fact are open to discretion. The trial process which is

"characterized as the 'sporting theory of justice' by its critics and the 'battle theory of truth' by its converts, the normative approval of an 'interested' rather than 'disinterested' seeking of the facts marks one of the greatest discrepancies between the legal system and science" 27.

The liberal, perhaps moderate utilitarian view has observed

that not only the severity but the certainty of punishment is required to socially process an illegality defined as an act of crime. This stands for the moderation of punishment for certainty.<sup>28</sup> Public opinion has often both determined severity and enhanced or disqualified the certainty of punishment. The reality is also that judges create laws as much as legislatures make them, and judges frequently justify their interpretation or discretion by deference to community standards. As Professor Robert Park said "we are always passing laws in America. We might as well get up and dance. The laws are largely to relieve emotion, and the legislatures are quite aware of that fact"<sup>29</sup> to wit we may add the not inconsiderable value of laws as opinion forming in their own right - even to the extent of having force as moral edicts.

Yet the community is no longer accessed to the spectacle of punishment or a 'battle of truth' and if so only vicariously. Opinion then rests on available belief, information and little experience. As Huxley (1937) warns, "In all dictatorial propaganda silence is at least as important as speech, 'suppressor veri' as important as 'suggestio falsi'. Indeed the negative propaganda of silence is probably more effective as an instrument of persuasion and mental regimentation than speech. Silence creates the condition in which such words as are spoken or written take most effect"<sup>30</sup> and Karl Marx (1843) "The Government only hears its own voice, knows that it only hears its own voice, yet acts under the illusion that it hears the voice of the people, and demands from the people to accept this illusion as true. So the people for their part sink partly into political superstition, partly into political disbelief or withdraw completely from civic life and become a rabble interested only in its own affairs".<sup>31</sup>

Public opinion and the law, illegalities, crimes and delinquency is a fabric of ideas and opinion which ultimately rests on some action of will, it is a susceptible "mysterious" force which continues to beckon political ownership. As a force of legitimacy it provides an economy of effort, a guide to the utilitarian ideal and most certainly a manipulated manifestation of the product of its time. Therefore we also tend to view public opinion as a dubious identity. Is it simply a question of enumerating the number most in 'favour' of any action? The future and our current technological skill would see a capacity for spontaneous and persistent polling so it is therefore plausible to realize the potential for more control of opinion. Unquestionably we are ambiguous about the importance and utility of public opinion, and much disagreement is spawned on this issue alone. The most impressive utility in our consideration is the election of state and the plebiscite. These are the obvious manifestations, opinion is wider and more subtle. Fundamental change occurs over longer sessions of time than between public political enumerations and illegalities wax and wane like the tides. Public opinion is, as Dicey concludes more often a question of fact than of philosophy and that facts are more important to opinion than to law. Facts are subject to science, change and development. Yet the student of public opinion "*must conclude*" writes Dicey "*that each kind of opinion entertained by man at a given era is governed by that whole body of beliefs, convictions, sentiments, or assumptions, which, for want of a better name, we call the spirit of an age. Deeper than opinions lies the sentiment which predetermines opinion. What it is important for us to know with respect to our own age or any age is, not its peculiar opinions, but the complex elements of that moral feeling and character in which, as in their congenial soil, opinions grow.*" <sup>32</sup>

Opinions are made healthy and wise by constant and opposing counter opinions. Good opinions and attitudes however cannot alone be assured by the mere exercise of freedom of expression itself. Seldom can society say it enjoys such a unanimity that some opinions are not driven to exclusion because like the behaviour they may express are outlawed.

1. Hume, quoted in Dicey, A.V., Law and Opinion in England 2nd Ed (1914), p xxvii
2. J.S. Mill, quoted in Dicey, A.V., ibid p 2
3. Dicey, A.V., ibid p xxvii
4. Dicey, A.V., Introduction to the Law of the Constitution, 8th Ed. (1915) p ivxii. (See also a contemporary restatement of this principle by Schulhopter in Sebba (1980))
5. Dicey, A.V., Introduction to the Law of the Constitution, ibid p vx
6. Dicey, A.V., ibid p vxi; for a practical definition of 'public opinion' one can do no better than Peels' (1820) description of public opinion as the "*the tone of England - of that great compound of folly, weakness, prejudice, wrongfeeling, right feeling, obstinacy and newspaper paragraphs which is called public opinion*" Quoted in A.V. Dicey p 20, Law and Public Opinion in England 2nd Ed (1914)
7. In Foucault (1977) Discipline and Punish, p 259, from an account in the "Gazette des Tribunaux" 20 July 1836, of the transfer of Dellacolonge a notorious priest who had murdered his pregnant mistress
8. Lord Devlin (1972) quoted in Griffith, p 190, The Politics of the Judiciary 1977.
9. See Taylor, I., Walton, P., Young, J., Critical Criminology (1975): Karl Marx (1848) (quoted, p 215 in Taylor et al) has been presented as equivocal and severe of the lumpen proletariat "*The dangerous class, the social scum, the passively rotting mass thrown off by the lowest layers of the old society, may, here and there, be swept into the movement by a proletarian revolution, its conditions of life, however, prepare it far more for the part of a bribed tool of reactionary intrigue*". Yet he writes "*Their (the capitalists) personal rule must at the same time be constituted as an average rule. Their personal power is based on conditions of life which as they develop are common to many individuals and the continuance of which they, as ruling individuals, have to maintain against others and, at the same time, maintain that they hold good for all. The expression of this will, which is determined by their common interests, is law.*" Quoted in Griffith (1977), op cit p 205
10. Thompson, E.P. (1975) Whigs and Hunters p 269
11. Quoted in J.A. Griffith, op cit p 211, Lord Devlin, The Times, 27 October 1976
12. The current social anthropologist should be intrigued by the perpetuation of physical detachment by the judiciary from ordinary opinion. "*There is one matter which I ought to mention. All the judges without exception, are members of the Athenaeum, and I presume you will wish to be a member. If so, may I have the pleasure of proposing you? There is a meeting of the Committee early next week.*" Lord Cozens-Hardy, MR to Lord Buckmaster - as he became - on the latter's appointment to the Lord Chancellorship, in a letter dated 26 May 1915, quoted by R.F.V. Heuston, The Lives of the Lord Chancellors 1885-1940, p 269. Certainly the Governor Weld Club serves a similar parochial purpose
13. Fink, A. (1938) Causes of Crime: Biological Theories in the United States 1800-1915, p 240
14. Sykes, G. (1956), Crime and Society, p 59
15. Fink, A. (1938) op cit p 242.
16. Fink, A. (1938) ibid p 242
17. Jones, H. (1981) Society against Crime, p 41.

18. Fink, A. (1938), op cit p 251
19. Erskine, H. (1974) "*The Polls: Control of Crime and Violence*" Public Opinion Quarterly p 497
20. Jones, H. (1981), op cit p 41
21. See V. Aubert (ed.) Sociology of Law Penguin 1969, in particular Blumberg (1967), Podgórecki (1962), Hood (1962) & Ruesche-Meyer (1964)
22. Dicey, A.V. (1905) Law and Public Opinion 2nd Ed. (1914) p 1
23. See Warren, N. and Jahoda, M. Attitudes Penguin, 1973
24. Foucault, M. (1977) op cit (1977) p 277
25. Foucault, M. (1977), ibid p 286 e.g. 'Les Mysteres de Paris', 'Rocamboles', 'La Phalange', 'La Ruche Populaire', 1840. O'Henry's (1907) "*A retrieved Reformation*" gives a typical and sympathetic view of the prisoner's plight on release, "*The clerk handed him a railroad ticket and the five dollar bill with which the law expected him to rehabilitate himself into good citizenship and prosperity*". Published in O'Henry's Short Stories Minster, London, 1968, p 164
26. For example consider Daniel Browers (1899) conclusions on the physiology of the criminal ("*Medical Aspects of Crime*" Boston Medical and Surgical Journal) "*The habitual criminal, who constitutes the great bulk of the class, is a biological study, and his anatomic, physiologic and psychologic nature demands our most careful investigation, in order that we may determine the ways and the means to settle the various questions to which he gives rise. There is a criminal physiognomy, by no means easy to describe, but the same, no matter whether seen in our jails or in the jails of any other country on the globe. Any physician, by looking at the face, without being able to describe its anatomic peculiarities, can reach conclusion, as Mantegazza writes, on five important problems: (1) The condition of health or of sickness; (2) the degree of beauty or of ugliness; (3) the moral worth; (4) the intellectual worth; (5) the race. The study of physiognomy, regarded as of such great importance by the physician of the last century, is too much neglected by the physician of today.*"
27. G. Sykes, (1956) op cit: p 36
28. A notion dating back to Beccaria's (1762) criticism of the law
29. Quoted in G. Sykes (1956), op cit p 17
30. A. Huxley (1937), quoted in Voice of the People - Christenson, R.M. McWilliams, R. (eds.)
31. K. Marx (1843) - quoted in Christenson, R., McWilliams, R. (1962) ibid p 315
32. Dicey, A.V. op cit p 465, the quote used is from Pattison, Essays Vol ii, p 284

CHAPTER TWO

PUBLIC OPINION AND CRIME : A SURVEY APPROACH

*"But jail for unskilled illiterates is unlikely to be a deterrent, in fact it probably teaches more about crime. Jail for highly organized frauds and conspiracies is likely to be more effective but these people have access to expensive legal protection and very rarely see jails when they are the people that jails would teach a lesson to."*

A survey respondent, aged 26-35; 1981.

The measurement of public opinion prior to the utilization of the 'survey' technique was restricted fairly much to the extent of the franchise and the hard working moral statisticians. It is possible to concede to the great weight of changes that has influenced opinion over time. For example: It would trouble us now to effectively imagine an opinion or attitude that excluded women from the right to an opinion (at least on election days). Opinions are of direct political relevance. In the view of Hume, Bentham, Mill, De Torqueville, great and more subtle opinions also pervaded society. These of course were sentiments that were restrictive or fertile of expression. In sociological terms these are customary expressions, the folkways and mores of communities.

Of course we have to treat opinion surveys, even if based on random selection with characteristic and representative features of our society, as no more than formalized slices of community opinion. Some discussion amongst scholars has even suggested the more political versions of these surveys (voting behaviour, pre-election polls etc.) have usurped the role of elections and government and it is argued that the spirit of our age is the perpetual plebiscite<sup>1</sup>. The essential assumption of the opinion survey is its self-report nature, it is the aggregate of human self-reports structured and interpreted by observation and experience. Responses can be structured (often for reasons of economy) to finite definitions, therefore the structure of the opinion survey is as important as the results derived from the collection of self reports. Surveys are not abstract or independent interventions, nor are opinions. They are important currents and counter currents in the affairs of people in community.



In this study, the opinions, attitudes and judgements of the community on the exercise of punishment, the law and enforcement are enumerated. On the subject of the determination of 'crimes' the social morality of a community plays an important part. Our study of the past, present and different cultures finds a multitude of differences in behaviours defined as crime and the sanctions; tax or punishment devised for its suppression.

Opinions that guided our acceptance of corporal punishment and mutilation<sup>2</sup> we would find unacceptable today as we would eighteenth century medical practice. As Sykes comments "*as Western society has questioned the connection between crime and punishment, the problems have multiplied. Not only is there disagreement as to the morality of punishment, the apparently simple issue of whether or nor punishment actually reforms or deters is now recognized as an intricate puzzle in social interaction. The conditions under which the formal sanctions of the state are effective; the differential utility of punishment for different types of crime; the role of informal punishments inflicted by the individual's primary groups; the techniques of "avoiding" punishment when it takes the form of a withdrawal of affection and respect; the role of these techniques in the causation of criminal behaviour - all are now seen as difficult problems requiring factual evidence for a solution rather than the pat answers of the "give 'em Hell" school or the sentimental faction.*"<sup>3</sup>

Opinion, beliefs, feelings change and they change principally because of facts, information, knowledge and experience. We learn opinions and we are open to persuasion and this is traditionally observed as a relatively slow process across generations. Opinions and attitudes about crime and punishment have substantially changed

over a long period of time, the documentation, correlation and connection of these changes occur alongside many others observed in society.

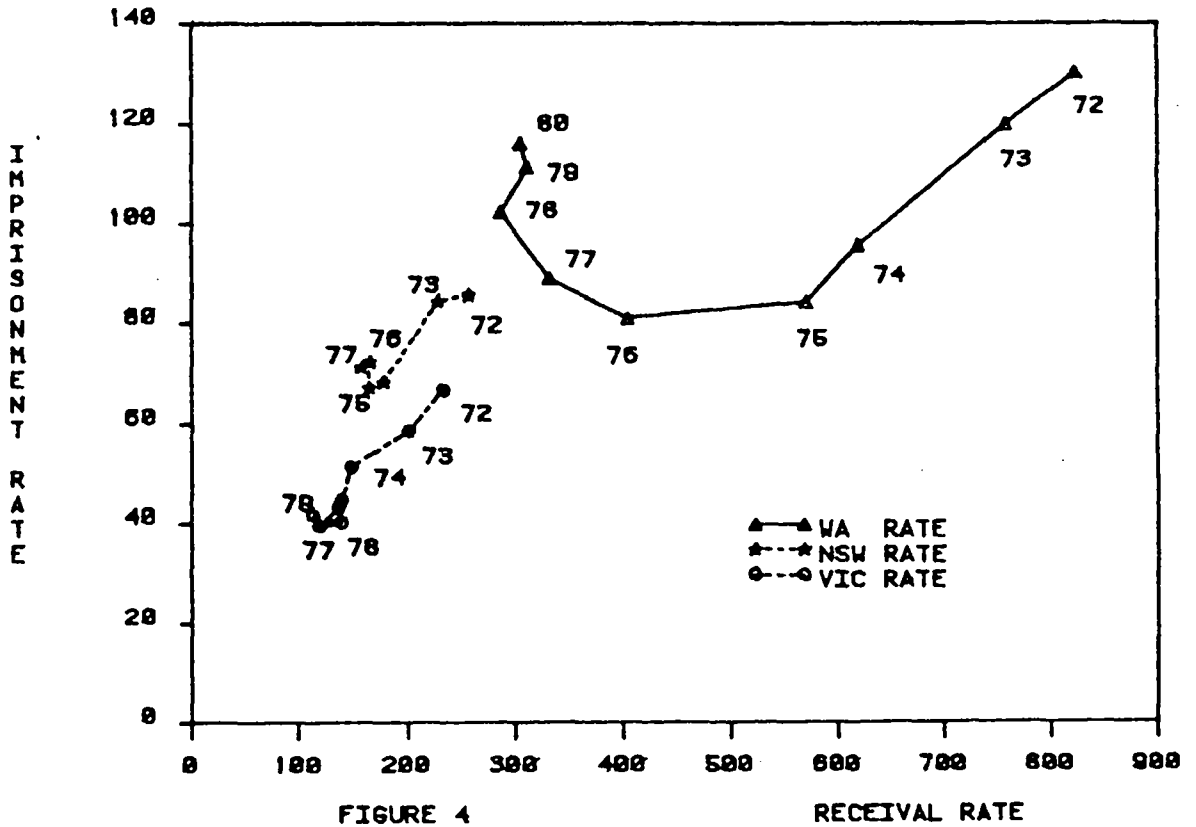
### Public Opinion, Crime and Punishment

This study focuses on our attitudes to imprisonment and crime, partly motivated by a curiosity about what opinions people have about the law and punishment. For 'community attitudes' are mostly characterized as punitive and severe, also a high level of intolerance and moral indignation/outrage is associated with crime. These attitudes however can be readily differentiated by the type of behaviour and the degree of severity associated. In the approach adopted here attitudes and opinions to the sentencing of various offences and the support for law administration was elicited. A chief concern was to isolate the observed high rate of imprisonment in Western Australia; considerable attention has been directed to this high rate of imprisonment in Western Australia compared with that of other States. A recent Government inquiry<sup>4</sup> has considered standard explanations, such as: an enormously high rate of aboriginal imprisonment; predominant use of imprisonment as penalty in the lower courts; importation of criminal elements (from Eastern States); various 'frontier' and geographical (isolation) factors and thesis; a more punitive statutory criminal code and severe community attitudes. Yet none adequately explains the quite marked trend observed in Figure 1 below.

In Figure 1 the imprisonment rate is very high compared to other States with a rapid drop in those received in prisons and a reversal of an early trend toward a lower imprisonment rate. After considering the effects of aboriginal imprisonment, effectiveness of enforcement

FIGURE 1. Comparison of Interstate Trends in Imprisonment and Releival Rate <sup>5</sup>

Imprisonment and Penal Releival Rate, NSW, VIC and WA from 1971/72.



Note: The two digit number beside the plotted points indicate the year ending 30 June.

court practice, mechanical calculation of remission, sentencing management, probation, parole and recividism <sup>6</sup> the inquiry on the facts concludes to the question "What is the explanation of Western Australia's high imprisonment rate?"

*"Not only has Western Australia somewhat more crime in certain offence categories than other States, but it is also imprisoning the persons convicted of these crimes much more frequently. This is taking place in the Lower Courts and involves Aborigines to an extent far in excess*

of their proportion of the general population. In comparison with New South Wales, Western Australia courts sentence six times as many persons per capita to imprisonment for non-sexual assault, three times as many for breaking and entering, forty times as many for offensive behaviour, five times as many for property offences relating to motor vehicles, and three times as many for drivers' licence offences. Aboriginals figure prominently in all of the categories just mentioned, and we note that the last two have provision for some mandatory imprisonment. This leads to somewhat longer sentences, on the average, but it is clearly not the length of prison sentences which is causing Western Australia's high imprisonment rate, but rather the frequency with which people are imprisoned." <sup>7</sup>

The account that this jurisdiction has somewhat more crime than other states is not uniform across crimes in the less serious categories which are most often those processed by the lower courts and some of these offences (like simple theft, motor vehicle theft, assault) are also reportedly more frequent in Western Australia than some other states. Braithwaite <sup>8</sup> and Biles (1980) analysis of a large victim survey self report study indicates the City of Perth and Western Australia experiences in some critical categories of crime higher rates of victimization than other states. While certainly court practice in Western Australia shows a greater propensity to imprison <sup>9</sup> - is this a reflection of the law, judicial opinion (judge created law and sentencing practice) or community standards? This was the intriguing question addressed to account for the plausible and suggestively punitive interpretation of the special circumstances in Western Australia.

Table 1 shows some of the differences between New South Wales rates

of serious crime and that of Western Australia, we can note that the differences between the rates for serious assault and 'robbery' tend to counteract any overall difference.

TABLE 1SERIOUS OFFENCES BECOMING KNOWN TO THE POLICE:RATES PER 100,000 IN TWO STATES\*

	<u>New South Wales</u>	<u>Western Australia</u>
<u>HOMICIDE</u>		
1975-76	5.50	4.50
1976-77	6.33	3.25
1977-78	6.00	2.04
<u>SERIOUS ASSAULT</u>		
1975-76	17.03	27.36
1976-77	18.05	35.84
1977-78	21.47	30.03
<u>ROBBERY</u>		
1975-76	26.88	12.40
1976-77	27.30	10.61
1977-78	34.24	12.68
<u>RAPE</u>		
1975-76	6.96	6.07
1976-77	6.19	7.77
1977-78	7.28	3.02

\* Source: unpublished research, Department of Prisons, Western Australia 1981.

Certainly the conclusion that a very great proportion of imprisonment can be attributed directly to our aboriginal minority (rates gauged at around 17 times higher than for white Australians; for example aboriginals form around 35% of the daily average prison muster and over 50% of the receivals for prison, yet they represent about 3% of the total population of Western Australia) is sound and based on an unforgiving history, and the conflict of laws and values. As well our attitude, as a European culture to the Aborigines has been complex and ultimately dominated by the desire to control the aboriginal community. The

threatened aboriginal community manifests all the signs of a quasi-outlaw existence. Effective changes in White-Australian perceptions of aboriginal culture from a 'savage' or 'primitive' view to humanistic and ecologically astute evaluations has been a process of opinion accelerated by its address by scientific method and discovery. Evolutionary philosophy which vulgarised to a hierarchical order of mankind had in error degraded the culture and people of aboriginal descent. An opinion that no doubt significantly underpinned the relationship between the white man and his aboriginal neighbour historically and which still carries substantial if modified and disguised force.

However, some changes are observed in the fluctuations of 'crimes' or 'illegalities' as reported and processed by executive and judicial actions. For example, a recent report states "*Aborigines in both 1980 and 1981 are heavily over-represented in the following offences: Unlawfully on Premises, Drunkenness, Escaping Legal Custody/Hindering Police, Disorderly Conduct, Unlawful Use of Motor Vehicle, Minor Assault and Rape. They are (and always have been) heavily under-represented in all types of drug offences and in False Pretences and Fraud. Aboriginal over-representation in the offences outlined above is a long-standing phenomenon, which in the case of Unlawful Use of a Motor Vehicle, is becoming increasingly disproportionate.*" <sup>10</sup> If we also observe the changing pattern of prison commitments (1960-1980) <sup>11</sup> the indication is that as far as imprisonment for offences goes some moderation of punishment has occurred in some crimes, while others have become selectively more severe. As the changes have been observed one commentator says over the last twenty years "*there has been a dramatic rise in traffic offences to the point where they constituted 25% of all commitments to prison in 1979/80. In percentage terms, unlawful*

*use of motor vehicles has not shown the same increase in commitments as traffic offences. The most dramatic decline over the period has been drunkenness, which twenty years ago, accounted for one-third of all commitments, but which in 1980 accounted for only 5%. During the same period, offences against good order also declined on a percentage basis. The dramatic fall in commitments for drunkenness after 1974 seems to reflect what appears to have been a conscious though informal decision on the part of many of the Judiciary to employ sanctions other than imprisonment." 12 \**

The changes in the selective enforcement of punishment for various illegalities is aptly demonstrated above and is a process of fact and opinion. The law deals with increasing traffic, registration problems and opinion on the subject of alcoholism has undergone substantial facelifts not the least of which is its status as a 'disease'. The concern about alcohol and drunkenness has been displaced by alcohol's combination with the motor vehicle. The example illustrates what might reasonably be expected of changes in our understanding of facts, the 'reality' of our new technological societies and attitudinal positions over time. Vigorously held beliefs survive and adapt to the circumstances of the day or almost disappear.

Public attitudes to imprisonment and prisoners have also undergone some substantial changes over time, if somewhat cyclical. As Erskine (1974, 1975) has shown in her review of the polls and crime, attitudes to imprisonment (unlike attitudes to the Courts which have persistently been critical of judicial leniency) in the United States have been dominated by three observable trends. After World War II, public attitudes favoured punitive and authoritarian prison management, by the 1960's this trend had been changed and correctional reformatory methods were dominant. Public approval for correctional practices peaked in the early 1970's but by 1975 a reversal of the trend had begun to manifest.

\* Author's Emphasis

TABLE 2

PERSONS AGED 18 YEARS OR MORE, NSW:  
OPINION ON MAIN PURPOSE OF IMPRISONMENT, BY SEX AND AGE  
OCTOBER 1980\*

Sex and Age	Main purpose of imprisonment thought to be -					Total
	<u>Punish- ment</u>	<u>Deter Others</u>	<u>Rehabil- itation</u>	<u>Protect Society</u>	<u>Not Stated</u>	
	(per cent)					
<b>Sex</b>						
Males	37.0	7.2	21.0	30.8	3.9	100.0
Females	32.8	5.0	20.1	39.1	2.9	100.0
Total	34.9	6.1	20.6	35.0	3.4	100.0
<b>Age (years) -</b>						
18-24	36.6	3.7	31.3	27.9	-	100.0
25-44	34.6	5.7	21.7	35.1	2.9	100.0
45-54	30.5	9.3	18.3	37.0	4.8	100.0
55 or more	36.6	6.4	13.4	38.4	5.2	100.0
Total	34.9	6.1	20.6	35.0	3.4	100.0

\* Source: NSW Office Australian Bureau of Statistics "Attitudes to Penalties for Crime: NSW October 1980" 1981.

The Purpose of Imprisonment: The Public View

The remnants and currency of our attitudes to the use of imprisonment, are displayed in a recent Australia Bureau of Statistics monthly survey. A sample of citizens of New South Wales was asked to indicate the purpose of imprisonment and the responses in Table 2 above show that the purpose of punishment retains a powerful hold on public opinion, yet deterrence, a celebrated justification of legislators and the judiciary, unfavoured by opinion. Attitudes to the protection and rehabilitation functions or purposes of imprisonment are illustrated in Table 3 which notionally measures the degree of approval for offender rehabilitation or re-integration by respondents' attitude to the release of prisoners for various reasons. Table 3 is quite revealing, bearing in mind that the table counts only those who suggested



TABLE 3    NEW SOUTH WALES (ABS SURVEY)    OCTOBER 1980

PERSONS NOMINATING PRISON SENTENCES (a):

ATTITUDE TO TEMPORARY RELEASE FROM PRISON, FOR SPECIFIC OFFENCES (b)\*

Offence Type	Attitude to Temporary Release from Prison - Approve Temporary Release for:							Not Stated	Total
	Do Not Approve	Work During Day	Day With Family	Technical College Lectures	Other Reasons	Total Approv- ing			
PROPORTION (per cent)									
'Shoplifting'	30.0	26.6	35.8	12.4	-	68.2	-	100.0	
'Motor Vehicle Theft'	28.6	32.3	19.6	29.5	-	70.0	1.5	100.0	
'Break, Enter and Steal'	43.7	26.0	21.2	16.3	1.6	54.8	1.4	100.0	
'Drug Using'	62.2	9.7	11.3	10.1	8.1	36.3	-	100.0	
'Armed Robbery'	57.8	15.9	17.8	13.9	1.8	40.6	1.6	100.0	
'Embezzlement'	37.4	23.8	35.3	13.4	2.0	61.5	1.1	100.0	
'Drink-driving causing Injury'	35.8	33.5	28.5	14.2	2.4	63.4	-	100.0	
'Drug Selling'	65.8	9.3	9.3	10.8	8.6	33.2	1.0	100.0	
'Murder'	47.9	26.1	22.7	11.6	2.0	50.3	1.8	100.0	
'Rape'	74.4	7.2	7.7	11.5	3.4	24.6	0.9	100.0	

- (a) This table relates, for each offence shown, only to those persons who nominated a prison sentence as the penalty for that offence
- (b) Persons who approved temporary release for more than one purpose have been counted in each purpose approved but only once in this total.

\* Source: NSW Office, Australian Bureau of Statistics, "Attitudes to Penalties for Crime: NSW, October 1980" 1981.

For further descriptions of the crime categories listed in Table 3 the reader should refer to the next chapter for more details and comparisons with some Western Australian results.

a penalty for each offence. Prison administrators and courts might be impressed by the relatively high tolerance for approval for release even for relatively serious crimes. One might also consider the strong age factor in approval for 'rehabilitation' as a purpose of imprisonment. (See Table 2.)

Generally the mitigation of imprisonment is a function which can only be indirectly influenced by public opinion. Of course temporary releases of prisoners have on occasion caused considerable public concern, particularly those that consequently resulted in further crimes. Certainly Governments react to specific instances where apparent 'lenience' has been perceived as a failure to 'protect society' by community opinion leaders or community opinions are assessed as reacting to any mitigation. Public opinion appears aware of judicial and administrative discretion in sentencing and prison management (e.g. remission, temporary leave etc.) - the small population studies carried out in Western Australia revealed that the sentences respondents assumed would be served were on average always about half the sentence suggested by respondents. <sup>13</sup>

TABLE 4

TEMPORARY LEAVE FOR PRISONERS: WESTERN AUSTRALIA  
APPLICATIONS FOR LEAVE OF ABSENCE: MINISTERIAL APPROVALS  
JULY - DECEMBER 1981

LEAVE TYPE	APPROVED	NOT APPROVED	TOTAL
Home Leave	30	7	37
Work Release	97	8	105
Voluntary Work	6	-	6
Study Leave	-	-	-
Other	4	-	4
TOTAL	137	15	152

*"The figures above (Table 4) show that very few cases (9.8%) failed to receive Ministerial approval. By contrast, 21 percent of applications for the period 1.7.80 - 30.6.81 failed to gain approval. Furthermore, the 152 applications for the June - December 1981 period compares with a total of 256 for the preceding twelve months, thus indicating that the volume of applications is once more increasing."* <sup>14</sup>

Table 4 shows the rate of approval for temporary release activities over six months in Western Australia compared to the previous six and twelve months. Note that the approval for such "releases" is primarily an administrative rather than judicial act therefore the degree to which imprisonment can be interrupted for any purpose is decided on a range of factors part of which may be community reactions. Yet such decisions are far removed from direct community influence and are a "droit administratif" practice. The administrative figures in Table 4 illustrate changes in the application of discretion, which perhaps might be considered a consequence of an opinion or attitude about the purpose of imprisonment.

The orthodox and contemporary view of imprisonment has quite categorically excluded punishment per se as a function of imprisonment and defined its purpose as achieving *"a regime which recognises that when the punishment for crime inflicted by the courts is imprisonment, that deprivation of liberty is itself the punishment. The deprivation carries with it restrictions on movement and communications, but additional sanctions such as assaults or threats of it or any other 'cruel or unusual punishments' are unauthorised and it is the responsibility of the prison authorities to take all reasonable care to prevent them."* <sup>15</sup>

The outlook for reform or change to this narrow official view is bleak. As Andrew Willis (1981) writing on the future of correctional imprisonment in Britain illustrates, *"the development of penal policy is best characterised by inertia, with no prospect of an early resolution to the present crisis in imprisonment, whether by a large-scale prison-building programme, which looks financially impossible, or by massive decarceration, which appears politically unacceptable. However, within this overall tendency towards inertia, certain developments are taking place. First, for relatively minor and occasional offenders there is moderate expansion of non-custodial measures, though this is viewed largely as the consequence of the very high costs of incarceration, rather than as a valued penal objective in itself, and is also subject to definite limits, beyond which a non-custodial sentence is seen as wholly inappropriate. Second, sentencing innovations have been proposed for so-called dangerous offenders, which, together with the increasing length of prison sentences, suggests that it has now become politically expedient or advantageous to urge a more rigorous approach to the minority of more serious offenders. And, third, there is a residual group of mentally disordered and socially inadequate petty persistent offenders who will in all probability continue to be imprisoned on an intermittent basis because community care turns out to be both politically unacceptable and prohibitively expensive."*<sup>16</sup> While Willis predicts moderate changes in the emphasis of incarceration likely also to occur in Australia the reality of reform (internal or external) *"is a very sordid story indeed."*<sup>17</sup> Dr Vinson's (1982) litany of failure in prison reform is documented in his book Wilful Obstruction. The crunch comes in a classic statement by a prison guard who urges, during a 'riot' in Parramatta Jail, Vinson to let prison officers *"...really get stuck into them (prisoners) tonight and teach them a lesson. Then the officers will get behind you."*<sup>18</sup> There is no point being 'shocked', effectively prisons are ultimately run on naked and arbitrary power.

TABLE 5 ATTITUDES TO IMPRISONMENT. W.A. 1981 \*

	Disagree	Uncertain	Agree
"Sending a person to prison will teach him a lesson."			
January	35.4	29.9	34.7
December	32.1	44.1	25.8
"Prison provides the community with the most effective deterrent to crime."			
January	34.5	17.3	48.2
December	32.0	23.4	44.6
"Prison rehabilitates prisoners."			
January	44.9	42.5	12.6
December	44.9	41.2	13.9
"Offenders should still be sent to prison even if it will increase the chances of them committing more crimes."			
January	39.0	25.1	35.9
December	35.3	25.7	39.0
* Sample January 279, December 273. Adult voters in all Federal Electoral Districts of W.A. except Kalgoorlie.			

Our attitudes to imprisonment are clearly equivocal. As Sykes (1956) observes, "... it is true that life in prison is harsh and undoubtedly some officials are stupid. And criminals in confinement are not delinquent children writ large - many of them are dangerous, clever men inured to violence and indifferent to the softer claims of social life." 19

Table 5 shows a sample of opinions polled in two recent small population studies in Western Australia. The refinement here is that agreement with certain opinions about the purpose is enumerated. Along the way our consideration shall be directed by our concern to see if the weight

of opinion influences our use of imprisonment - are there differences in the attitudes of Western Australians which might account for the propensity of imprisonment? As an explanation the force of any enumeration of public opinion need not of course conclude with some judgement and estimation of the majority view. Public opinion is frequently noted for its misjudgement, error of fact, stereotype and label, custom and prejudice - consequently it is valuable to note the disagreements and uncertainties. How ready are our governments and judiciary to give effect to mass sentiments or opinions? Revision of existing laws, new laws, law Reform Committees, Royal commissions and inquiries are all demonstrable and formal patterns of law making eliciting and influencing opinions and interest. Decisions about the exercise of punishment (imprisonment) are influenced by community attitudes, as much by the rule of the law; the discretion afforded courts to determine guilt and the quantum of penal sanctions is substantial. As in the times of the 'crime spectacle' the measure of punishment demanded by the state is still a central source for the unpredictable demands of public revenge or mercy that continue to concern the administration of justice.

Efforts over the years has been aimed at reducing excesses of punishment so that it serves the most economical purpose. When prisons become overcrowded, judicial attitudes can be persuaded to 'disperse' or 'divert' offenders (transportation and banishment were eighteenth century equivalents) away from prison and penal sanctions. Or when space is limited or unavailable elsewhere, persuaded to use penal sanctions as de facto welfare separation and disciplining mechanism for recalcitrant categories and sub-groups of people.<sup>20</sup> The so-called 'garbage can' theory of imprisonment.

The salient feature of the use of imprisonment is that the great bulk of the prison population is universally and consistently the bottom strata of any given society - the unskilled, illiterate, the unschooled, social misfits and so on, often not greatly different from the populations they offend against and substantially not a representative group of all those who commit illegalities. Certainly the use of imprisonment in conjunction with the surveillance of police and other institutions of order has generated a powerful net of perpetually processed "illegalities", often arguably selected by sectional or dominant interests.

#### The Courts and the Judiciary

The system that determines punishment and protects the individual from persecution is manned by the judiciary, who from the perspective of the sociologist have a particular set of opinions lucid to their occupational culture and their position in society.<sup>21</sup>

*"These judges have by their education and training and the pursuit of their profession as barristers, acquired a strikingly homogeneous collection of attitudes, beliefs and principles, which to them represents the public interest. They do not always express it as such. But it is the lodestar by which they navigate"*<sup>22</sup> and *"Judges are concerned to preserve and to protect the existing order. This does not mean that no judges are capable of moving with the times, of adjusting to changed circumstances. But their function in our society is to do so belatedly. Law and order, the established distribution of power both public and private, the conventional and agreed view amongst those who exercise political and economic power, the fears and prejudices of the middle and upper classes, these are the forces which the judges are expected to uphold and do uphold."*<sup>23</sup>

If indeed these views of Griffiths (1977) can be enumerated then consider the results of Table 6 below which tests the opinion of the survey respondents to the courts. If prevailing opinion is that the courts are vehicles of 'interest', not organs of blind justice then the disrepute of law can only be enhanced. If opinion about the capacity of courts to maintain order and freedom are uncertain then justice will be observed as a mere processor of laws. Much of our law and the many nuances of convention that obscure its workings to lay and even practitioners while disguising its weaknesses preserve the embodiment of the opinions of the past and of class. Opinion can be seen as an integral part in the mechanisms of legitimating the actions of those in power or those who seek power, *"... as conventional rhetoric, political parties always claim that their policies, and not those of their opponents, best serve the public interest. Another truism is that I will be inclined to identify my interests with those of the public."*<sup>24</sup>

**TABLE 6** ATTITUDES TO THE COURTS. WESTERN AUSTRALIAN SURVEY 1981

	Disagree	Uncertain	Agree
"Judges and courts are fair."			
January	33.5	30.1	36.4
December	29.1	31.7	39.2
"Sentences handed out by the courts are too lenient."			
January	9.0	23.0	68.0
December	12.8	23.6	63.5
"There should be more use of imprisonment as a penalty rather than fines, work order and good behaviour bonds."			
January	51.0	18.7	30.6
December	54.5	15.9	29.6
"Prison sentences should be reduced and the money saved spent on helping the offender in the community."			
January	50.6	25.2	24.2
December	50.9	20.3	28.8



The fact that the role of other institutions and agencies apart from the judiciary are influential in the process of law enforcement has long gained the attention of the judiciary and enforcers. An example, particularly in America is the proliferation of Police Community Relations Units and boards<sup>25</sup> and the formalization of police-media liaison, as in the belated reorganisation described in a recent police annual report. *"Liaison with the media forms a vital aspect of law enforcement, particularly when warning the public regarding matters of criminal activity or seeking their support, co-operation or understanding. To ensure an organised and controlled avenue between the department and the media, a Commissioned Officer was appointed as Media Liaison Officer, and his role has resulted in a significant improvement in our liaison with the media, leading to more balanced reports on police activities in all areas and an increase in the outflow of information to the public."*<sup>26</sup>

#### The Police and the Community

Law enforcers are sensitive to the wider interests of the community and are not always successful if they pursue only purely legalistic disciplines of their role and tasks. All this however, begs the question of the role of the police who unlike the judiciary are perhaps the closest to exercising the ultimate powers of government. It is in their interests to be viewed as impartial independent exercisers of the law. Table 7 shows a coarse summary of the results of some recent small Western Australian surveys of public opinion towards the police. The results are not atypical examples of the somewhat ambivalent attitude held towards the police by the public. The police are not as an institution able to convince us that they act entirely without reference to some sectional interests.

TABLE 7 THE POLICE

	Disagree	Uncertain	Agree
"The Police are fair."			
January	17.1	33.1	49.8
December	18.0	28.0	54.0
"The Police victimise individuals."			
January	28.2	40.6	31.2
December	36.5	30.2	33.3
"The Police should have more power."			
January	56.9	22.3	20.8
December	52.6	19.3	28.1
"Complaints against the Police and prison wardens should be investigated by an independent body."			
January	6.4	1.9	91.7
December	5.1	2.6	92.3

\* Sample January 279 respondents, December 272. 1981

Police in this country have until very recent times maintained a level of silence on their attitudes, maintaining that they are not law makers but law enforcers. This rather simplistic position has in the long run not substantially helped or improved police-community relations. Police officers, as Sallman (1981)<sup>27</sup> urges, should vigorously enter the debate about crime, both to improve their capacity to appear and be independent of certain inherent conflicts of interest and as a necessary opening of a dialectic process with the community they serve.

Commenting on the history of law enforcement, Trojanowicz and Dixon (1974) summarise the essential difficulties: *"Political manipulation and*

*law enforcement seem always to have been closely associated. With the advent of cities and great metropolitan areas, the effect of such influences was magnified. Undoubtedly, the greatest handicap of modern police administration is derived from partisan politics. Its pressure is applied under all systems and always affects management. No system is entirely free from it. Political influences are so varied and so numerous that they quickly result in leadership of poor quality, low standards of personnel management, inferior service, and a general decline in police prestige. The reasons for these failures are not difficult to find. They consist of a deeply imbedded distrust by the public of police authority, recurrent opposition to its vigorous exercise, and a determination that, whatever happens, the police shall never succeed to a position of actual civil control."* 28

The history of modern police forces is replete with examples of the most incompetent to the most outstanding and dedicated officers. However, efforts to democratise, economise and legitimate police activities have always fundamentally rested at least in liberal eyes with the toleration, acceptance and even support from and of the community. Thus what is often presented as a recent phenomenon; control and respect for law enforcement is a perennial issue and one that has been fraught with difficulties. A principal difficulty has been the transference of responsibility for maintaining peace and justice from the time when perhaps we assumed such responsibility to a period when we have abrogated this duty to specialists - and in America and elsewhere a response has been to tend toward a variety of informal private means of crime control verging in the extreme to vigilantism. Thus extreme, exclusionary or exaggerated responses can be promoted when sectional interests pervade in the absence of much wider consensus and responsibility. Trojanowicz and Dixon

have suggested that for the public *"the policeman symbolizes many different images to community residents: above all he is the most visible symbol of governmental authority."*<sup>29</sup>

Most certainly our view of policemen ought to go beyond platitudes about the kind of special relationship they should enjoy with the community and any tendency to institutionalise this relationship in formal units of the police organisation will need the permeation of a service or 'peacekeeping' orientation rather than the 'thin blue line' approach. It has long been recognised that police have a serious public relations problem and success or failure determined by the method of handling. *"Despite this situation"* writes Gourly in 1950 *"very few departments had done much about the problem; and even these few are preceded with very little factual information about attitudes of people upon which to build an adequate public-relations program."*<sup>30</sup> Since the 1950s this picture of neglect and insufficient information about the communities they serve still holds true. Notwithstanding the operational difficulties of applying a community relations perspective in law enforcement, police agencies must be accessed for open scrutiny and review. The difficulties this aspect produces can be illustrated in the numerous commissions on policing, punishment, prisons, police corruption and so on. The connection is altogether illustrated in the conclusion of a recent inquiry: the ingredients are provided, allegations in the media followed by quasi-judicial or government review, and usually such procedures or interventions are legitimated in the public interest.<sup>31</sup> Thus the role of the public or the complainant is often vicariously substituted for formal and informal airings which whatever their result tend to lead to conflicts; leave unresolved and unsatiated the concerns rather than perhaps aiming at positive conciliation or adjustment of practices. Public

complaints are often competently addressed in law only as a form of disciplinary action against police and prison officers. Accordingly few complaints are effectively dealt with. This indeed makes for an effective sectional interest, for if police for example are to be disciplined for practices they as an occupation do not disapprove of, then such is the dilemma. It need not be dispensed with on the condition that by trust and vigilance alone the community interest can be served.<sup>32</sup> While provision of formal controls relies on government intervention and even if judicial and quasi-judicial measures are provided their effectiveness has to be considered in the light of experience.<sup>33</sup>

Community Review: The Press, Police and 'Justice'

In concluding an investigation and report (Dixon, 1982) on allegations of graft and corruption in relation to Prostitution in the Western Australian Police Force, the investigator recommended no further action be taken by the government. Yet he sums up: *"the action of the Commissioner (Police) in doubling the size of the vice-squad and in making this small squad directly responsible to an Assistant Commissioner should go far towards preventing similar allegations of corruption being made"*.<sup>34</sup> The corruption had allegedly involved the protection of prostitution and had been heralded, according to Mr Dixon, by newspaper stories *"which would do credit to the outbreak of World War III"*.<sup>35</sup> As Mr Dixon observes such 'newsworthiness' is often manufactured; *"Prostitution is always a subject which the media consider of interest and if one can couple with this subject allegations of police impropriety or associating those of some standing in the community with such allegations, then one can be sure the subject will receive publicity out of all proportion to its importance in the overall enforcement of the law."*<sup>36</sup>

The reporting in this instance could in the view of Mr Dixon "only be described as a triumph of sensationalism over accuracy" and "it is not within my brief to criticise members of the Press but I am bound to say the manner of some reports was such as to cause the general public alarm as the integrity of the police force and in many cases this was done on the basis of wholly unsubstantiated evidence."<sup>37</sup>

A standard and reasonable defence to this sort of criticism is that there are however other forces afoot apart from the judiciary to protect the rights of individuals and to identify problems of law in society. Newspapers: "sensationalism", "mudraking" is the genre of the press yet they are experienced and occasionally zealous pursuers of fact and truth. "Far more than on the judiciary, our freedoms depend on the willingness of the press, politicians and others to publicize the breach of these freedoms and on the continuing vulnerability of Ministers, civil servants, the police, other public officials and powerful private interests to accusations that these freedoms are being infringed. In other words, we depend far more on the political climate and on the vigilance of those members of society who for a variety of reasons, some political and some humanitarian, make it their business to seek to hold public authorities within their proper limits. That those limits are also prescribed by law and that judges may be asked to maintain them is not without significance. But the judges are not, as in a different dispensation and under a different social order they might be, the strong, natural defenders of liberty."<sup>38</sup>

When the respect and prestige of law enforcement is questioned one may assume that exposure and observation of corruption, graft, conflict of interest, omissions, incompetence and so on will be most difficult to

detect and weed out. Combine such questioning with some doubts in law, an ambivalent public opinion and the reality that *"It is almost impossible for an outsider to expose corruption at a high level because such men would be astute enough to prevent any effective investigation"* and it is logical that public opinion will overwhelmingly seek established mechanism of review for not always will it be sufficient to conclude *"... no matter how good the Commissioner and his senior men may be, they cannot however prevent the odd occasion when a member of the force is dishonest",*<sup>39</sup> however true.

While bad apples certainly taint a barrel, one might be more pressed by the view of the New South Wales Commissioner, *I consider that I should state as firmly as I can that in my opinion the existing role of the Ombudsman in relation to police is impractical and ineffective. Worse, without exaggeration, it can be described as a dangerous charade likely to deceive members of the public into believing that there is a public watchdog or guardian with effective powers when there is not. Given the real possibility of deception and the not inconsequential cost of the present system, it would be better to abolish the present role of the Ombudsman in relation to police rather than retain the present system in an unamended form ... investigations of alleged police misconduct and consequent decisions about prosecution or disciplinary action are made by the police and there is no effective review."*<sup>40</sup>

Under such circumstances despite wearisome castigations of the manufactured and dubious 'news' of the media the noticeable demand of public opinion (see Table 7) for independent review of police forces is the most challenging point of public opinion and the law. While

there is substantial cultural and social diversity in our communities the maintenance of well respected law enforcement agencies is vital. Such agencies need to be available to independent review and perhaps more importantly develop procedures (more remedial than punitive) for the resolution of complaints. Recognition of substantial differences and disagreement in the community is an important anvil in the effective and economic administration of law. Effective law enforcement is safer and more likely to be supported (particularly when it's really needed) if police actively pursue strategies of minimum punitive intervention and maximise their non-punitive relations.

*Sykes warns, "There is a great temptation to treat society as if it were a person - to speak of society doing this or that, the reactions of society, the morals of society, and so on. The usage is convenient, for it avoids a cumbersome phrasing; but it carries the danger of viewing society as much more homogeneous than it is in actuality. Society is diversity, a collection of individuals with varied patterns of sentiments and behaviour. And this variation is particularly marked in the area of crime and punishment. How and why the criminal should be penalized is subject to sharp dispute."*<sup>41</sup>

We should consider that after all the profits of crime don't always simply end up in the hands of criminals. They find their way into respectable bank accounts, securities, properties of individuals. Such networks are organised as means for legitimating or laundering the profits of some crime, corruption or illegality.<sup>42</sup>

*"Police, lawyers, doctors, bail bondsmen, and businessmen - all must be called on to support the peaceful coexistence of organized crime*



*and the legitimate social order. In short, organized crime would seem to involve a form of criminal behaviour where departures from more "normal" patterns of social action are at a minimum. The structure of motivation is closely akin to that of regular economic endeavour, and opposition from both internal and external controls is slight."*<sup>43</sup>

While our views of what constitutes a crime, an illegality or an offence are uncertain we can expect our law enforcement agencies and our courts to reflect this uncertainty in their overall endeavours. Inconsistency, selectivity and the sheer volume of the law now make it imperative to get straight the priorities in justice that we must aim for. Certainly courts, police and prison officials have to a very large extent ordered priorities according to internal needs and logic often not always in the interest of the community. This need not be viewed as some perverse conspiracy nor as a mere exercise in the rule of a class or elites. The problem will remain persistent because there is inadequate and confusing information about the law and experience is replete with examples of 'lawlessness' and illegalities gone unchecked. Expectations that in the whole gambit of law, communities and societies can achieve 'consensus' must now to some extent be reviewed. It is a dangerous luxury to assume that consensus exists, yet it remains wise to act positively when consensus is sure (as it is in many but by no means all 'crimes' as defined by statute). Is it still sufficient to believe that the only formal channel necessary for recognising public opinion is through representative political processes and that informal processes such as newspaper opinion, quasi-representative opinion polls and remonstrations of sectional interests are adequate supports and

substitutions? It is likely that they are not and that institutions of all kinds and notably those administering justice need to look to formal and informal procedural reforms that suffer them to the variety of opinion outside their interests and challenge them to inform and communicate with the communities they serve and the persons they discipline.

1. See, Paletz, D.W. et al (1980), "Polls in the Media: Content Credibility and Consequences" Public Opinion Quarterly Vol 44, and Milbrath, L.W. (1981) "Citizen Surveys as Citizen Participation Mechanisms" The Journal of Applied Behavioural Science Vol 17 (1981)
2. See Foucault, M. (1977) Discipline and Punish, Chapt 1
3. Sykes, G. (1956), Crime and Society p 94
4. Dixon, O. (Chairman) (1981), Report of the Committee of Inquiry into the Rate of Imprisonment in Western Australia
5. Dixon, O. (1981) ibid p 39
6. The Dixon report however, has been criticized for failing to adequately account for the effects of parole (arguably parole is seen as increasing the length of imprisonment) and recidivism. In other words no reckoning of the systems imprisonment generating capacity was considered in the report - perhaps for obvious reasons!
7. Dixon, O. (1981) ibid pp 79 80
8. Braithwaite, J., Biles, D. (1980) "An overview of findings from the First Australian National Crime Victims Survey" ANZ Journal of Criminology
9. See Dixon, O. (1981), op cit Tables relating to court practice p 50, 52 and 55 and also Docstats: No 3, March 1982, Planning and Research Department of Corrections, WA
10. Anon. (1982), Docstats: No 3 Department of Corrections WA p 14
11. See Anon (1982), ibid, and Annual Report, WA Department of Corrections, 1979/80; 1980/81; 1981/82.
12. Anon (1982), ibid p 12
13. See summary of first survey in appendix or refer to Broadhurst, R. (1981) Public Attitudes to Criminal Justice: A West Australian Survey
14. Anon (1982), op cit p 17
15. Clarkson, G.D., Q.C. (1981), Report of the Royal Commission on Allegations in Relation to Prisons and Certain Related Matters - South Australia p 77
16. Willis, A. (1981) "The Future of Corrections" in Jones, H. (ed.) Society Against Crime, p 282.
17. Wilkinson, M. (1982) "Prison Politics", National Times, Aug 29 - Sept 4, p 17
18. Wilkinson, M. (1982), ibid p 17 we should also note that the Judiciary has largely abandoned internal prison discipline to processes that deny public access and the legal representation of prisoners. For a recent judicial (and dubious) statement as to this state of affairs see R.V. Visiting Justice at H.M. Prison, Pentridge; Ex parte Walker (V.R. 1975; p 883), and Sexton and Maher (1982) The Legal Mystique pp 66 - 73
19. Sykes, G. (1956), op cit p 113
20. See for example Duckworth, A. (1982) "Imprisonment of Aborigines in North Western Australia", ANZ Journal of Criminology and Dixon, O. (1981), op cit p 118 which suggest the latter point may often account for the short sentences given to aborigines on the grounds of welfare
21. See Sexton, M., Maher, L. (1982), The Legal Mystique, and also Aubert, V. (ed.) (1969), The Sociology of Law, part V
22. Griffith, J. (1977), "The Politics of the Judiciary", p 193
23. Griffith, J. (1977), ibid p 214
24. Griffith, J. (1977), ibid p 193
25. See, Trojanowicz, R., Dixon, S. (1974), Criminal Justice and the Community also Mark, R. (SIR), (1977) In the Office of Constable

26. Western Australian Police Department, Annual Report 1980-81, Commissioner's Introduction, p 7
27. Sallman, P.A., (1981) "The Police and the Criminal Justice System" ANZ Journal of Criminology, Vol 14, No 1
28. Trojanowicz, R., Dixon, S. (1974), op cit p 46
29. Trojanowicz, R., Dixon, S. (1974), ibid p 56
30. Gourley, D. (1950), Public Attitudes to Policemen, quoted in Trojanowicz, R., Dixon, S. (1974) ibid p 50
31. See for example the Royal Commissioners of Norrie (1975), Nagle (1978), Clarkson (1981) and Lusher (1981)
32. See for similar conclusions; The Report of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedures within the Royal Canadian Mounted Police, Ottawa 1976 and Terrill, R.J. (1980), Complaints Against Police: the Movement for Change in England, Canada and Australia" Police Studies
33. With respect to prison one might also consider the recommendations of Commissioner Clarkson (1981), about the establishment of an independent prison Inspectorate responsible directly to the judiciary, to ensure adequate "knowledge time and expertise to investigate complaints made by prisoners" is available. The Commissioner also regards the impediments to adequate investigation remediation and conciliation lie in part with the Prison Act Offence against 'false or frivolous' complaints by prisoners. Clarkson (1981), op cit p 79 - 80. For further similar conclusions see also Sellick, G. (1982), The British Journal of Criminology Vol 22, No 1, and with regard to police Hain, P. (ed) (1979) Policing the Police
34. Dixon, O. (1982), The Report of O.F. Dixon on A. The Action taken by the Police regarding allegations of Graft and Corruption within the Police Force, and B. What further action is necessary regarding such allegations p 83
35. Dixon, O. (1982), ibid p 23
36. Dixon, O. (1982), ibid p 19
37. Dixon, O. (1982), ibid p 82
38. Griffith, J. (1977), op cit p 214
39. Dixon, O. (1982), op cit p 82
40. Masterman, G. QC, (1982), Report: On the Effectiveness of the Role of the Ombudsman in Respect to Complaints Against the Police, unpublished report to the Premier and Minister for Police, New South Wales, pp 22 - 23
41. Sykes, G. (1956), op cit p 81
42. See the National Times, Aug 29, and Sept 5, commentary on the interim report of Commissioner Costigan, QC - 'Royal Commission into the Painters and Dockers'
43. Sykes, G. (1956), op cit pp 58 - 59

### CHAPTER THREE

#### PUNISHMENT AND PUBLIC OPINION

*"I do think that the public at large are becoming more fearful. It is hard to trust anyone anymore. Myself for instance have ceased to go out to theatre or functions in town because I am afraid of my car being stolen. If I returned and it had gone I feel it would be more than I could bear."*

A survey respondent, age over 50;  
1981.

*"There's still one law for the rich and influential and one for the poor and if we had full employment there would be less petty crime."*

A survey respondent, age over 50;  
1980.

### Recent Surveys of Public Attitudes to Punishment

In the following section public responses to a range of crimes are enumerated. Respondents were asked to nominate the appropriate penalty for each crime description provided. Of course such crime descriptions or crime vignettes do not provide all the details that a judge might have to determine the appropriate penalty and thus in terms of policy analysis are useful only as the most general of benchmarks. For convenience and interest I have also drawn on a recent survey conducted in New South Wales by the Australian Bureau of Statistics as well as the two small population studies conducted in Western Australia.

The New South Wales and Western Australian studies were conducted and based on two entirely different and incomparable methodologies. The New South Wales study was a supplement based on the relatively large monthly employment surveys conducted by the Bureau and thus represents a substantial sample of interviewed respondents.<sup>1</sup> The Western Australian Survey in contrast drew on a very much smaller random sample and was responded to by return mail questionnaire rather than by interview. Both surveys are based on a self-report mode and are of course subject to the weaknesses and assumptions associated with such a mode. The mail out return strategy adopted in Western Australia is in short a weaker methodological strategy with problems relating to respondent self selection. While efforts were made to monitor non-respondent attitudes to crime (by following up non-respondents by phone or by personal interview), caution has to be exercised by the reader in regard to the 'representativeness' of the West Australian Survey. For a more complete discussion of these methodological issues the reader is referred to the research report in the next section and the summary of the first survey in the Appendix.

In short however the position can be summarized as follows, the ABS survey can be read with considerable confidence as an accurate reflection of public

attitudes to crime in New South Wales while the Western Australian survey must be read with qualified confidence. Having said all this it is worthwhile to note that while there is relatively a lot of disagreement in the various technical journal literature as to the reliability of different methods and strategies of social survey research some unanimity has emerged recently with regard to the general reliability of mail self-report strategies for crime seriousness studies. Some commentators have even argued plausibly that anonymous self (return) - completed reports may be a better vehicle for accurate documentation of public attitudes than structured interviews which run the risk of contamination because the respondent may defer to a perceived more acceptable response in a face to face situation<sup>2</sup>.

The ABS survey in New South Wales also opted for a more detailed 'crime vignette' description following the practice of Sellin and Wolfgang's (1964) pioneer studies of crime seriousness while the Western Australian study followed the more generalized practice adopted by Scott and Althakeb (1977) for cross-cultural comparison purposes. In addition the range of penalty and ambience of the two studies differed as a quick glance of the questions will show; whether any of these nuances make much substantial difference to general results is a question for more research, data gathering and analysis. Certainly by juxtaposing the results of the two surveys we can at least achieve a better feeling for public responses to crime than by avoiding any kind of qualified comparison on the basis of methodological heresy. There is no question that the results are methodologically incomparable yet it is these differences in approach as much as the compelling similarities to these responses that excite interest.

In our earlier discussion we were moved to consider the question of Western Australia's very much higher rate of imprisonment compared to other states including New South Wales. We also compared serious crime rates (per 100,000, see Table I) and found differences but not substantially.

We noted that lower courts certainly in Western Australia used imprisonment at a much greater rate than New South Wales and other states and that the imprisonment of aborigines in Western Australia was a substantial if not the most likely reason for the large discrepancy between rates of imprisonment. If we accept the conclusion of the statistical report of the Committee of Inquiry into the Rate of Imprisonment (1981) that even accounting for all these differences there was still an unaccounted residue in the higher rate of imprisonment in Western Australia for which no explanation could be made, it is then reasonable to speculate that this difference could be attributed to the peculiar (and perhaps more severe) parochial attitudes of Western Australians to penal laws and punishment. There are some grounds for postulating a possibly more severe attitude toward crime in Western Australia. For instance the isolation, relative homogeneity and traditional animosity toward the aboriginal population may be more sharply evident in this state than others. Coupled with a lingering 'frontier' ethos, particularly in the many rural and mining communities even more isolated than the large suburban conglomerate of Perth, the conditions thus exist for extremes or conservatism in opinions (and resistances to broader changes in opinion) is plausible. Some tentative support for this notion can be inferred from a comparison with the Northern Territory which arguably 'enjoys' a frontier character and a large aboriginal population and a correspondingly high rate of imprisonment (i.e. fluctuating between 245 - 205 per 100,000 in the Northern Territory compared to the present approximately 110 per 100,000 in Western Australia).

While the Western Australian data after analysis indicated a very severe punitive response compared to other similarly documented data <sup>3</sup> (i.e. in other countries such as the Netherlands, Norway, Denmark, Finland and in the case of Sweden, results differed by as much as a factor of two)



a reasonable if speculative assumption was that the attitudes of Western Australians played a significant part in that state's high rate of imprisonment. Yet if we look carefully at the public response in New South Wales the conclusion that Western Australians are more punitive than other Australians cannot be readily or confidently drawn. Thus on the available information, although I would urge the reader to speculate on his own accord, there seems no great merit in attributing in part the proclivity of imprisonment in Western Australia to some function of more severe and punitive attitudes. Indeed any characterization of public opinion in Western Australia as being exceptionally and universally severe (even while evident at the aggregate level) would be a mistaken conclusion in any detail. Our analysis has shown public opinion (as a glance at the Tables also would show) as somewhat polarized in any event with a relatively minor proportion of the population persistently and consistently suggesting very severe sanctions. I would conclude that it is probably this more indignant group that commands or demands the most influence on the political and legal system. Their outrage and demand for severe repression and punishment undoubtedly has more impact on politicians and the judiciary than the perhaps more 'forgiving' majority observable in survey responses to many crimes - indeed it would appear that only the most resolute and astute politicians and community leaders could resist the force of these severe and stern responses to crime. As long as political leadership perceives the utility or safeness in responding to these 'outcries' the path to general innovation in the uses of punishment will be blocked and the general response to public sentiment reduced to idiosyncratic and individualistic adjustments of isolated cases as examples of leadership demonstrations of government responsiveness.

"How Much Prison?": The Public Response Enumerated

Below purely descriptive summaries of public responses to a selection of crimes are outlined. These summaries do not provide further breakdowns

of differences<sup>4</sup> that are significant because of the respondents' membership of large sub-groups in society. Such information can be obtained in greater detail in the sections to follow. For the moment suffice to say that responses also differ according to the age, sex, marital status, educational level and political preferences of the respondents. Obviously the situational circumstances of the individual even when so broadly categorised as in the above factors will bear on both the definition of what behaviours are regarded criminal and the amount of punishment supposed appropriate. Our attitudes to crime are after all socially derived. While such differences highlight the variety of opinion and help us to understand the perceptions and perspectives of different groups within our society towards crime the political reality tends to aggregate those differences in sentiment. At this point we must clearly suspend, temporarily at least, any interest in what might cause and enrich such attitudes and direct our attention to what implications for policy the enumeration of opinion provides alone. Our considerations here might be reckoned by the predominance of some preferences for some forms of punishment (over others, or preferences for no punishment at all.) If we observe such dominances, what are the implications for law enforcement and respect for the law? Lest we regard the manipulation of attitudes an easier task than the adjustment of behaviour it would be wiser to alter the object rather than the opinion. In addition what is also at issue in our condemnation of criminal behaviour is as Bottomley (1979) so succinctly put it *"not the morals of criminals but the morale of non criminals"*.<sup>5</sup>

TABLE 8

## R A P E

Q. NSW: "A 20 year old man, whose previous convictions were for vandalism, assaulted and raped a woman while she was on her way home from work."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison	Life Imprisonment
October 1980	7.6	12.7	61.0	18.0

Q. WA: "The offender is a 30 year old man who rapes a 19 year old woman."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison	Life Imprisonment + (Execution)
January 1981	4.5	13.8	63.2	18.3
December 1981	2.0	11.8	66.2	20.0

Notes

1. Where figures have been rounded, differences may occur between the sum of items and the total 100%.
2. In addition, in the N.S.W. Survey, apart from discrepancies arising from rounding, some totals fall short of 100% by some few % which represent the % of those not responding.

Serious Crime

Three serious crimes are enumerated in Tables 8, 9, 10, Rape, Murder and Robbery. The category "Penalty other than prison" includes fine, probation, work orders, not a crime and so on. Not surprisingly the predominant response is one of substantial imprisonment. The New South Wales survey does not enumerate the percentage of respondents who desired execution for these offences, and the percentage in Western Australia while significant belies the common assumption that such offences demand maximum retribution. The results for Rape and Robbery appear on both surveys as very similar.<sup>6</sup> Additional details such as the previous offences and the location of the rape appear to have little bearing on the level of moral indignation

TABLE 9

## A R M E D R O B B E R Y

Q. NSW: "A man, armed with a gun, who held up a liquor store and stole \$300, where it was his second such offence."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison	Life Imprison- ment
October 1980	4.9	25.0	65.8	3.4

Q. WA: "The offender is a man who robs a store with a gun."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison	Life Imprison- ment + (Execution)
January 1981	3.8	18.0	73.3	4.9
December 1981	2.2	23.4	71.4	3.0

expressed by the community. The murder offence represented by a typically tragic domestic homicide however shows some substantial differences between the Western Australian and the New South Wales survey. Much of this asimilarity could be attributed to the significant differences in the description of the offence; the New South Wales vignette closely idealizes the classic 'crime passionel' and best illustrates the significance of mitigating circumstances. Even so the difference despite methodological incomparability seems remarkably large on the basis of the facts in the description of the crime.

TABLE 10

## MURDER

Q. NSW: "A man with no previous convictions in a fit of rage shoots and kills his wife who had been unfaithful."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison	Life Imprisonment
October 1980	17.9	25.3	41.1	10.6

Q. WA: "The offender is a man who kills his wife during an argument."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison	Life Imprisonment + (Execution)
January 1981	6.0	7.6	55.1	31.3 (8.3) *
December 1981	3.5	9.7	47.9	38.9 (8.6) *

\* Percentage suggesting execution in brackets.

TABLE 11

## DRUNK DRIVING: INJURY AND DEATH

Q. NSW: "A motorist with no previous convictions, while he was driving recklessly under the influence of alcohol, ran over and seriously injured a pedestrian."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison	Life Imprisonment
October 1980	46.4	27.3	22.1	1.9

Q. WA: "The offender is a man who hits and kills a little girl while driving his car when he is drunk."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison	Life Imprisonment + (Execution)
January 1981	5.7	16.3	51.5	26.5 (5.3) *
December 1981	6.1	15.2	51.7	27.0 (5.7) *

\* Figures in brackets percentage suggesting execution.

Drunk Driving and the community response to it might reasonably be compared in this instance to the previous table numerating attitudes to murder. In this Table 11 the degree of harm, serious injury as distinct from the death of a 'little girl' most probably accounts for the differences yet one cannot help being somewhat intrigued by the contrast. One might also usefully compare these community responses to the drunken driver to the drug user and seller (Tables 15 and 16) enumeration.

TABLE 12 Property Theft

Q. NSW: "A 25 year old woman convicted for the second time of shoplifting goods to the value of \$25."

	Non Prison Penalty	Less Than 3 Years	More Than 3 Years
A October 1980	86.4	11.0	0.7

Q. WA: "The offender is a man who steals property (value less than \$50) from a stranger".

	Non Prison Penalty	Less Than 2 Years	More Than 2 Years
January 1981	52.6	42.0	5.4
December 1981	48.2	48.9	2.9

Q. NSW: "A man convicted, as a second offender, of stealing money or goods valued at \$500 by breaking into a house or flat."

	Non Prison Penalty	Less Than 3 Years	More Than 3 Years
B October 1980	21.2	57.4	20.4

Q. WA: "The offender is a man who steals property (value over \$100) from a stranger."

	Non Prison Penalty	Less Than 2 Years	More Than 2 Years
January 1981	32.8	55.1	12.1
December 1981	31.6	58.1	10.3

TABLE 13 White Collar Crime

Q. NSW: "A bank officer, with no previous convictions, found guilty of embezzling \$100,000 from bank funds which was refunded"

	Non Prison Penalty	Less Than 3 Years	More Than 3 Years
October 1980	37.4	30.3	30.6

Q. WA: "The offender is an executive of a corporation who knows that his corporation must purchase land; he purchases the available land and sells it for \$100,000 gain."

	Non Prison Penalty	Less Than 2 Years	More Than 2 Years
January 1981	56.3 (26.8)*	18.5	25.2
December 1981	58.4 (28.2)	15.7	25.9

\* Figures in parenthesis percentage suggesting not a crime at all.

Property Theft of the more traditional kind is described in Table 12, the minor offences in 12A illustrates the community's preference for non-imprisonment sanctions by and large for these sorts of offences. 'shoplifting' is an offence which traditionally is associated with younger persons but is now recognised as widespread in the age groups. Usually a substantially under reported crime, attitudes towards enforcement have been said to have changed to more vigorous prevention and prosecution in recent years. It is interesting to note that some now view employee theft <sup>7</sup> as the more significant form of loss through theft. As the quantum of theft rises (see 12B) the public response becomes more severe, however this should be contrasted (the 'morale of non-criminals'!) with the attitudes expressed in Table 13 to White Collar crime. Here non-prison penalties are much more preferred yet the costs to the community are potentially much more harmful <sup>8</sup> (compare \$500 to \$100,000). This is a much more complex issue than at first it may seem. Much of this 'leniency' toward the white collar criminal is a consequence of the labels

we have learnt to associate with various criminal behaviours; white collar criminals are regarded as non violent and therefore relatively 'harmless' while traditional thieves are perceived as potentially violent and therefore harmful. In addition white collar criminals are seen as suffering more as consequence of being caught - because they have much to lose in terms of status, well paid jobs and so on. The implication is that people who break and enter have nothing to lose and therefore need imprisonment to punish them. This distinction between 'white collar' criminals and for want of a better word 'blue collar' criminals is an interesting aside on our values as a community<sup>9</sup> and an indication that societies such as our own that regard themselves as 'classless' or egalitarian have firmly entrenched values that reinforce class or status distinctions.

TABLE 14                      MOTOR VEHICLE THEFT

Q. NSW: "A 19 year old youth found guilty for the second time, of stealing a motor car, which was recovered undamaged."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison
October 1980	63.8 (20.4)*	30.4	4.5

Q. WA: "The offender is a young boy who steals an automobile."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison
January 1981 (n = 279)	68 (5.2)	28.0	4.0
December 1981 (n = 272)	73.3 (3.0)	23.7	4.0

\* Figures in brackets are the percentage who suggest a fine.



Table 14 shows responses to the common offence of motor vehicle theft, the 'crime vignette' descriptions give some clues to the importance of the sanctions to be employed to repetitive offenders. Offences relating to motor vehicles (including unlawful use of motor vehicles, driving without a licence or while under suspension etc.) account for approximately 25% of imprisonment in Western Australia yet the general community response particularly with regard to the youthful offender shows a very strong preference for sanctions other than imprisonment. Recovery, restitution, compensation and so on are the preferred sanctions of potential victims.

TABLE 15DRUG USE

Q. NSW: "A woman convicted, for the third time, of using heroin."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison
October 1980	84.8 (80.5)*	4.8	9.0

Q. WA: "The offender is a person who uses heroin."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison
January 1981	48.6	28.8	22.6
December 1981	49.4	29.4	21.2

\* In the NSW Survey the option of medical treatment was included and 80.5% of the (estimated) population recommended this option.

Drug Abuse particularly relating to heroin and marijuana has become the emotional issue 'par excellence' in the law in recent years. <sup>10</sup> The laws in

Australia are some of the most draconian in the world and they have been justified as necessary for the adequate detection and prosecution of 'big dealers'. The laws relating to drug abuse have also been seen as at the forefront of the erosion of civil liberties and the vehicle for the extension of police power otherwise decidedly unpopular. It is not necessary here to comment on an issue that has produced more Royal Commissions and reports in Australia than perhaps any other subject other than to observe the very qualified community punitive response. Certainly the predominant community response to the use of heroin is substantially non-punitive and the New South Wales survey indicates that the problem is understood by the community as principally a medical problem rather than a law enforcement one. This view is somewhat surprisingly continued through to minor drug selling in New South Wales. Perhaps the Western Australian survey reflects the moral outrage of the community to the generalised 'heroin dealer' or the 'big dealer'.

TABLE 16

## DRUG SELLING

Q. NSW: "A drug addict, as a first offender, found guilty of selling small amounts of heroin to support his habit."

	Penalty Other Than Prison	Under 3 Years Prison	More Than 3 Years Prison	Life Imprisonment
October 1980	54.4 (41.9)*	20.1	20.6	3.9

Q. WA: "The offender is a person who sells heroin."

	Penalty Other Than Prison	Under 2 Years Prison	More Than 2 Years Prison	Life Imprisonment + (Execution)
January 1981	1.9	6.7	81.8	11.9
December 1981	4.3	6.0	80.2	9.5

\* 41.9% suggested medical treatment.

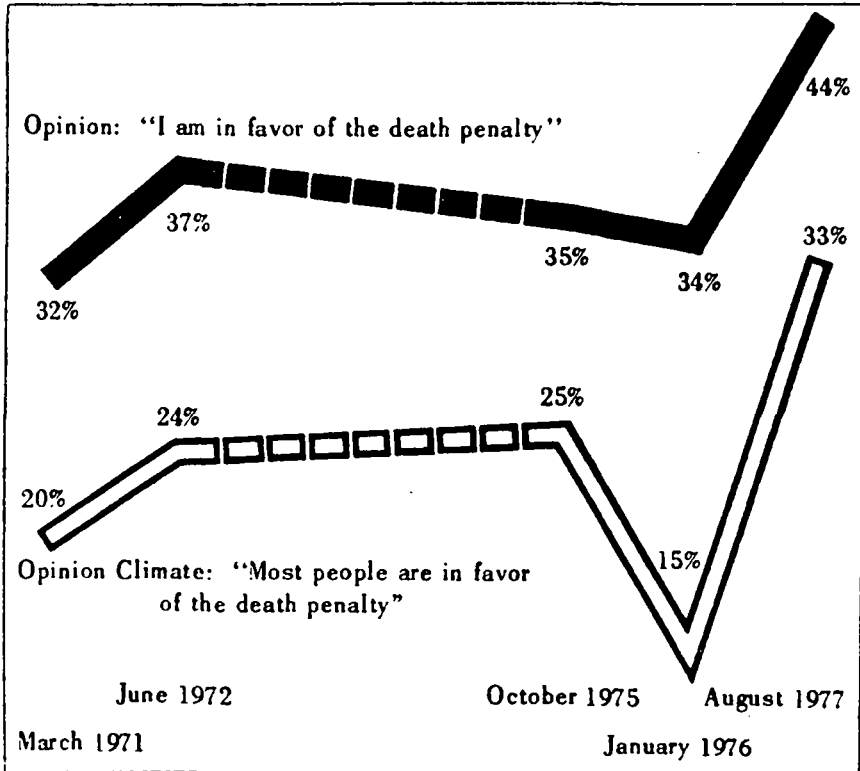
Public Opinion and Punishment: Some Implications for Theory

So far in our discussion and consideration of attitudes to crime and the relationship between law and public opinion we have not considered any overall picture of how the process of opinion-formation might work. We have as is typical of many attitude and opinion studies, adhered to a description of the results of surveys and the implications of these from a policy point of view. In Chapter One, some attempt albeit in a cursory way, was made to canvas some of the broader inferential and philosophical considerations. The state of the art in theory has not advanced a good deal since Dicey's work at the turn of the century and on whose work I have much relied thus far - we are still (and perhaps fortunately) mystified by the forces of public opinion. While certainly a great deal has been done by social psychologists and social surveys to measure, predict and identify the patterns of opinion and attitudes we are still left with the basic elements of dominant, counter and cross opinions which Dicey and his age had identified as a dynamic (if occasionally turgid) ground for the evolution of law. Of course the question of how one opinion had come to dominate others was within the confines of the 'spirit of the age', essentially settled by an associational view of opinion-formation. That is, the force of public opinion on a variety of issues was advanced by the credence of authoritative advocates of one view over another. In the terms of Locke the force of opinion was likened to a law; a law of fashion, of virtue and vice, of reputation or opinion. Above all public opinion was a force for social control (even more than direct actions) acting on the individual's fear of isolation.

A contemporary view of this is described by Elizabeth Noelle-Neuman's (1979) assertion "... that people sense a climate of opinion without

public opinion research, that they virtually have an 'opinion organ' capable of registering the most minute changes".<sup>11</sup> and that we need to carefully distinguish between 'public opinion' and 'published opinion'. After all the results of public opinion polls on controversial issues may reflect private opinions as no risk of isolation is ventured and thus the 'public' element is missing.

FIGURE 2.<sup>12</sup> Favoring the Death Penalty: Opinions and Opinion Climate



SOURCE: Allensbach Archives, IFD Surveys 2069, 2083, 3020, 3023, and 3046.

In Figure 2, data from social surveys in the Federal Republic of Germany illustrates the problematic relationship between 'private' and 'public' opinion, the pressure of public opinion is significant. Noelle-Neuman has described this phenomenon as the 'spirit of silence'; that is, the more controversial the issue the more likely 'public' opinion will be the opinion that can be expressed in public without isolating oneself. If such relatively complex factors are operating it is hard not to concede that "... public opinion is definitely not a source of wisdom which improves the government by its criticism. We

*have to give up this ideal, even if many political scientists, sociologists, and philosophers still cling to it, extolling 'critical public opinion' or public opinion committed to public welfare. This kind of public opinion is an invention. It cannot be discovered by empirical methods of observation."* <sup>13</sup>

To conclude that public opinion actually impedes good government is neither new nor reason to ignore it. Rather all that is necessary is to argue that sound efforts are needed to qualitatively improve it. As this is dangerously close to sounding like arguing for the systematic manipulation of opinion one needs to recall that in fact this is already very much the case. Take for example the view of the National Workshop of the Australian Foundation on Alcoholism and Drug Dependence, *"Media coverage of drug issues in Australia has, with notable exceptions, been extravagantly uninformed and intimidating. Partly as a consequence, fear has been engendered in the community concerning the possible results of the free availability of yet another drug, cannabis. . . "* yet *"It is important to give weight to public attitudes, but weight must also be given to the fact that these attitudes are heavily influenced by ill-informed media headlines and public debate at a generally low level!"* <sup>14</sup>

Thus it may well be wiser to lay at rest the myth of a 'critical public opinion' which barks at the heels of incompetent government and recognise that apart from the persuasiveness of opinion climates there is also a problem of communicating accurate non-sensationalized information to the public. No doubt the present Liberal National Country Party Government rues the present interest in tax evasion as not only an apparent change in the opinion climate but also a product of media extravaganza. No doubt if tax evaders or tobacco smokers for that matter were subjected to the same repetitive mis-information that

drug users have been over the last few decades 'pedlars' of tax evasion schemes or tobacco would soon face the ire of legislative action; from phone tapping to the confiscation of property and twenty years of 'humane confinement'.

While this current controversy is likely to produce a rash of prosecutions otherwise left in inertia and some stiffening of penalties it best serves to illustrate what Howard Becker (1963) has called a process of 'moral enterprise'. That is the "*creation of a new fragment of the moral constitution of society*". Drawing on the particular example, the development of penal laws with regard to marijuana and prohibitions, he shows how concern is generated, a 'symbolic crusade' mounted with associated media and interest group endorsement. Australians who remember, have experienced a similar process as a 'fashion' of the time with regard to the laws relating to the consumption of alcohol before the war and after. Recall the unpopularity of the restrictions and particularly in Sydney the extensive 'organised' efforts to circumvent law enforcement. They might also recall the dire warnings, editorials, legislation and so forth that justified the introduction and perpetuation of the restricted drinking rights that pervaded Australian culture throughout those times. While it is altogether wise to regard American prohibition laws and Australian drinking laws in hindsight as 'foolhardy' the truth of the matter was that such measures were introduced on the popular vote, and legitimated and maintained despite manifest dysfunctions for a great deal of time in the community interest. Of course advocates of the existing laws on the use of drugs will dismiss such associations as inappropriate for 'marijuana', 'two-up' gambling schools, brothels (but not massage parlours) and so on because they are 'different' from 'drinking alcohol'; fortunately or unfortunately depending on your prejudice they are not.

In Figure 3 below a theoretical construct of Becker's ideas developed further by Wilson and Brown (1973), Ditton (1979) and others is outlined. What is crucial and pivotal in this model is the role information plays. Information based on fact has a substantial influence on opinion and Dicey regarded fact as most important to opinion, and opinion important to law. The situation is more complex but no different today. Concern has been expressed about the role the media (the press, television, radio, etc) plays in the provision of information to the community, and ultimately it is this information on which the community must base its opinion. This concern has rightly addressed itself to the question of media monopoly,<sup>15</sup> commercial and government control of these important disseminations of public values, fears and concerns. Critics have argued that the media in fact rather than reflecting public morality, sanitizes and packages events and situations in ways that both 'sell' news and reassure the consumer. *"News anchormen", for example writes Davie (1982), "started as a journalistic convenience but have ended as a symbolic necessity. Their reassuring presence makes bad news less alarming. Thus the anchormen themselves, with their unflappable manner and calm comments, have become part of television's modification of the news it reports"*<sup>16</sup> Thus apart from any worry about the direct control and manipulation of the media, the medium itself is prone to selection and presentation characteristics that are at best misleading, at worst inaccurate and misinforming.

In terms of both the reporting of crime and our attitudes to crime the media plays an important part, more so when 'crimes' and 'illegalities' are not those centrally or traditionally at the heart of penal laws. Widespread public attention can be focused by the concentration of news items on a particular item or subject.<sup>17</sup> As Fishman (1978) has shown, this focus can create fictional crime waves as in the case of New York's now celebrated crime wave against the elderly which on closer and careful

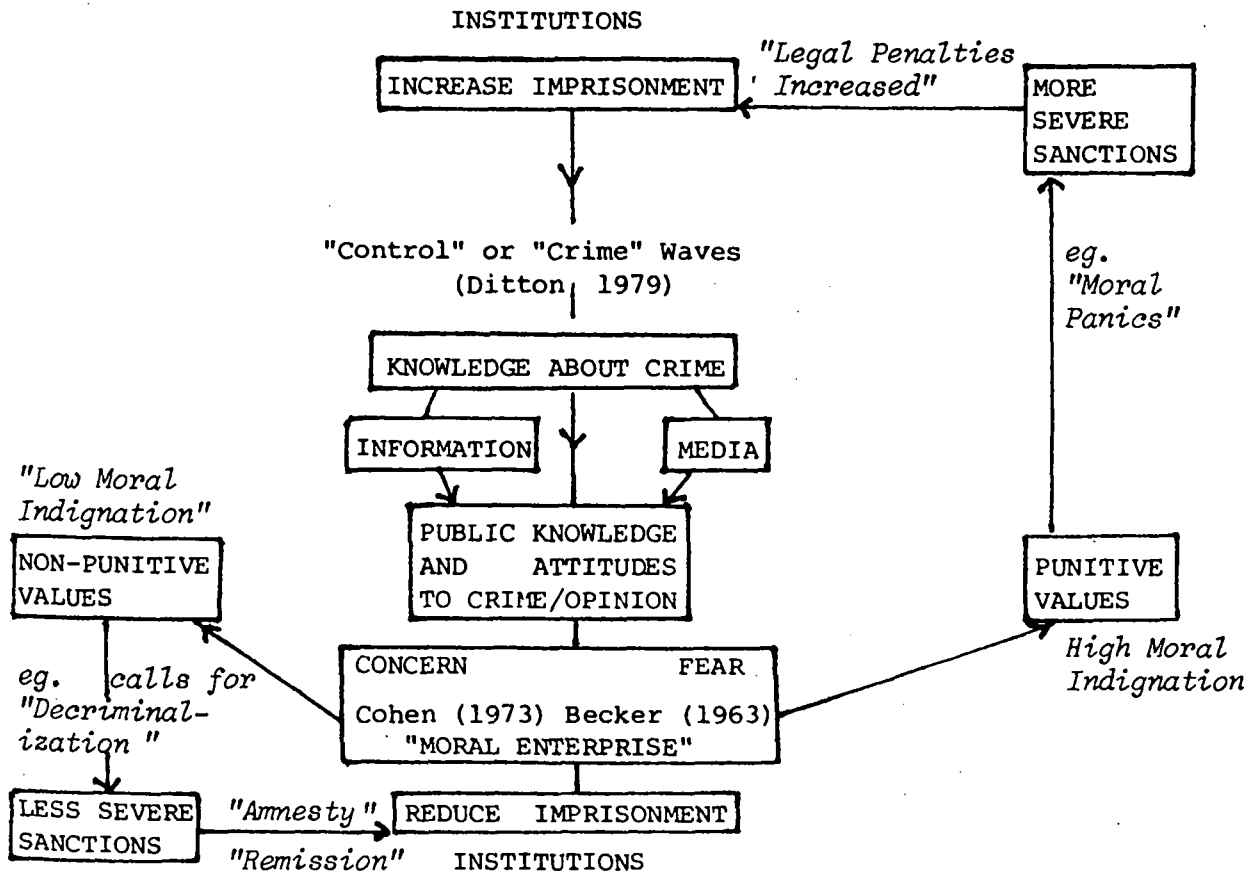
observation turned out to be little more than a self-induced and selective media campaign partly based on a New York Police opportunistic, zealous crime prevention strategy. In the more recent example of the Brixton disturbances, commentators Blom-Cooper and Drabble (1982) note that police characterizations of the Brixton area as crime infested was an important contributory factor in their handling of both the widespread riots and the perfunctory 'community' policing that preceded. In addition, to police characterizations of the area as more crime prone, based in part and supported by deft statistical data, the view was also widely taken up by the press with earnest recommendations for something to be done. *"It is submitted"* write Blom-Cooper and Drabble *"that the whole Brixton experience demonstrates that the perception by police officers of Brixton as a 'unique' area was part of the problem and could well have been, partially and statistically, a self-fulfilling prophecy"*.<sup>18</sup> Further this labelling process was accepted on assertion by the judicial review (Lord Scarman) of the Brixton disturbances in such a way as to reinforce and perpetuate the public image of the situation as little more than an aberration in the expected rate and growth of crime. Ditton (1979) has argued that these 'crime waves' which 'break' as it were, on the public consciousness are in fact reflections in the varying intensity of control.

Figure 3 explains this phenomenon as a rather circular process dependent on the community's knowledge about crime derived from a variety of sources, of which the media, with its currency and immediacy is the most important.

This issue of an 'informed' public is further explored in some detail below (in Chapter Four) by a quasi-experimental treatment of the survey data. Essentially in this approach some of our respondents received



FIGURE 3.



In Figure 3 Wilson and Brown's model is adapted to focus on the values stemming from "moral enterprise", (Cohen (1973) , Becker (1963)) arising from a fear or concern of crime. The role of knowledge and attitudes is developed and mediated by information sources and the media; for example "Crime Waves", (Ditton (1979); Fishman (1978)) and official statistics.

information about the criminal justice system and others did not and then the results were compared. In a procedure such as this where information is provided only once, and not repeated in a myriad of different reinforcing ways it is perhaps not surprising that the empirical outcome was equivocal. The simple hypothesis that related the provision of information and punitive attitudes was on balance rejected. However, those who would advocate a 'neutral' posture to the role of the media and government information sources in the generation of 'illegalities' and enforcement can do so only on the basis that such influences there are are unimportant within the total picture of

illegality and crime in our society. While it is plausible to relegate the process of informing the public about crime to trivial asides in the generation of crime and crime control, as a diffuse, repetitive and manufactured aspect it plays a powerful role in the development of public opinion. Public opinion after all has much to do with defining behaviour as crime as well as dictating the parameters of action possible - from tolerance to execution. To what extent opinion is misled, uninformed or misinformed is of acute relevance to us all if in the end we seek to maximise the little consensus we may achieve in our response to the tyranny of crime and its control.

1. The A.B.S. does not issue the number of people interviewed as a matter of policy but estimates the number for the population as a whole rather than enumerating the actual numbers in the sample.
2. With regard to the question of reliability the reader is referred to Scott (1981), Sebba (1980), Sheley (1980), Walter (1978), Scott and Althakeb (1977) and Sparks et al (1977)
3. See, Scott and Althakeb (1977) and the reader should consult the summary of research in the appendix for further details
4. For differential response according to age and sex in the N.S.W. study, readers should refer to the A.B.S. Report Attitudes to Penalties for Crime N.S.W., October 1980
5. Bottomley, A.K. (1979), Criminology in Focus, p 143
6. For comparison with an earlier Australian Survey on attitudes to criminal penalties see Wilson and Brown (1973) Crime and the Community
7. For example the estimates of employee theft (and employer actions) by the large 'supermarket' retail firm G.J. Coles put an annual (1980/81) figure of 450 employees dismissed for theft of whom 380 were charged - about 1% of G.J. Coles total staff. Some 25,000 customers were also caught stealing from Coles stores. The company estimated its losses from theft amounted to approximately \$40 million of which half the loss was attributed to its own employees - equal to the loss sustained by 'shoplifters'. Reported in the Weekend Australian, Sept 4-5, 1982
8. For a general and descriptive outline of the problem of 'white collar' crime in Australia, see Hall, T. (1979) White Collar Crime in Australia, a much sounder overview and contrast can be found in Braithwaite, J., Wilson, P. (1978) Two Faces of Deviance
9. Hall's (1979) rudimentary observation that white collar criminals can evade penalty or expect lighter sentences "... simply because the white collar criminal can brief a much better legal team to defend him and because he can find the bail money to get out of the remand prison", and this is also "... a reflection of society's attitude towards the white collar criminal: there just isn't the sense of public moral outrage" is not an atypical representation. Hall, T. (1979), op cite p 154. Hall later goes on (pp 155 - 160) with revealing naivete to describe the plight of the white collar criminal in prison
10. Recall the ferocious and much publicised responses to the release of the discussion paper by the Australian Foundation on Alcoholism and Drug Dependence (1982) Social Policies on Drugs, Alcohol, Cannabis, Heroin
11. Noelle-Neuman, E. (1979), "Public Opinion and the Classical Tradition: A Re-evaluation". Public Opinion Quarterly p 148
12. Noelle-Neuman, E. (1979), ibid p 149
13. Noelle-Neuman, E. (1979), ibid p 150
14. Australian Foundation on Alcoholism and Drug Dependence. Social Policies on Drugs: Alcohol, Cannabis, Heroin. A Discussion Paper p 11
15. See Edgar, P. (1979) The Politics of the Press, and Windshuttle and Windshuttle (1981) Fixing the News.
16. Davie, M. (1982) "Tubephobia", The Age: Monthly Review, Vol 2, No 5, p 5; also consider the following - "The Cronkite programme pioneered the trick played nowadays by other news programmes, which is to convey the impression that in the brief span of half-an-hour the entire world has been parcelled up and disposed of. 'And that's

the way it was', Cronkite used to say, implying finality, as if the activities of billions of people that day had been carefully surveyed, sorted, reported on, transmitted to the studio, scrutinised and authenticated by Cronkite, and only then packaged and presented to the viewers."

17. For example reconcile the following statement from the Commissioner of Police, which received appropriate 'headline' treatment in the press on the tabling of the Commissioner's report to Parliament with the statistics provided in the same report. "The number of all types of drug offenders who appeared before court increased by 48% over the entire age scale. This was particularly evident with the under 18 age group, resulting in a 96% rise over arrests for this bracket during the previous year.... I regret to say that the drug scene gives little scope for optimism. However, aided by new legislation presently before Parliament, every effort will be maintained to reverse this trend." (Commissioner's Introduction, Annual Report of W.A. Police Dept. 1980/81 p 7.) In fact the number of under 18's arrested for drug offences while higher than the previous reporting year was still lower than figures for 1974-1978 and in any event represents just over 3% of all persons charged with offences relating to drugs during 1980-81, in fact proportionally a rise of just on 0.05%; or a decline of over 6.5% on the worst year 1975-76.

\*Drug Offences: Number of Persons Charged and Charges for Last 10 Years

Year	Under 18 years		Total of	
	Persons	Charges	Persons	Charges
1971-72	26	37	182	274
1972-73	48	63	347	479
1973-74	43	49	414	527
1974-75	57	63	697	810
1975-76	95	98	962	1 175
1976-77	60	72	828	959
1977-78	65	72	794	1 194
1978-79	45	72	874	1 140
1979-80	28	29	1 110	1 372
1980-81	50	51	1 623	2 035

\*Source: Annual Report of W.A. Police Dept p 27

18. Blom-Cooper, L., Drabble, R. (1982) "Police Perceptions of Crime: Brixton and the Operational Response" British Journal of Criminology, p 187
19. Broadhurst, R. (1981), Public Attitudes to Criminal Justice, p 23

CHAPTER FOUR

RESEARCH: ATTITUDES TO CRIME, MORAL INDIGNATION  
AND THE IMPORTANCE OF BEING INFORMED

---

*"Oh man, wake up, because the same thing  
That is happening to me is happening to you...  
Wake up, because nothing comes to a sleeper  
but a dream."*

Anon prisoner, Attica Prison  
(1971)

## Introduction \*

Research in criminology in the past principally concerned itself with criminals and later with agents of social control. In more recent times attention has been directed at the public or community response to crime and our perspective substantially broadened in a way quite different from classical concerns about the role of the public in crime and crime control. The application of the technology of data processing has made it possible to subject large community samples to analysis, however, research has concentrated on the public as victims or as determiners of the seriousness of behaviours believed harmful or immoral. Sometimes community studies of crime have assumed an evaluative perspective - community reaction serves as a benchmark for the performance of social control personnel and methods. One of the outcomes of this relatively new interest in the role of the community has been to escalate concern about the extent of crime. As the principle vehicle of this new technology, victim surveys have been presented as the 'real' crime rate while official records hide 'real' crime. Understandably this has created controversy and increased the contemporary relevance of community attitudes to crime. While it is important to validate our information about crime rates and the operation of criminal justice, what is critical and in need of illumination is *"... the extent to which the systems input depends on the perception, beliefs, attitudes and actions of the general public"* (Sparks et al 1977, at p 177).

## Literature

A good deal of the scholarly attention arising from this renewed interest in the community has focused on the fear of crime which has been distinguished from concern about crime for analytical purposes (Furstenberg 1971,

\*Note: In this chapter, for ease in reading the Harvard system of referencing is employed.

Wilson et al 1973). The distinction has been difficult to effectively implement empirically. Much of the work undertaken has examined fear as a consequence of victimization or likely victimization (U.S. Dept. of Justice 1977, Skogan 1977), while others have suggested it is a consequence of a failure to exert social control by communities manifest by a wider definition of crime or "incivilities", poor policing and understanding (Lewis et al 1981, Maxfield et al 1980, McPherson 1978). The suggestion that fear of crime can be attributed to the direct amount of crime experienced has not been borne out by empirical measurement. In lieu of such an obvious link and many paradoxical results, researchers have singled out the influence of the media and information processes as an explanation for the examples of high fear levels reported in low crime areas (Fishman 1978, Humphries 1980). Nor is this entirely satisfactory as the debate about the kinds of effects generated by the media remains undecided and orthodox views such as the 'selective exposure hypothesis' are under challenge (Milburn 1979, Genova et al 1979). While agreement may have been reached about the manufactured nature of news and the doubtful efficacy of 'neutrality', 'objectivity' and 'balance' in news (Cohen 1973, Glasgow University Media Group 1976), few studies have directly linked such media processes to increases or decreases in fear or concern about crime. Those studies that have undertaken to examine media intensity and attitudes to events have inferred the relationship (Kepplinger et al 1979, Steadman et al 1977).

Some attention thus has been paid to the effect information may have on fear or concern about crime by media processes. Clarke et al (1982) identified that a knowledge about the victimization of others significantly generated concern about crime amongst elderly respondents. Others have found that information can have an impact on the reporting of crime (Klantz et al 1981, Atunes 1981, Mawby 1980) as does attitudes to the seriousness of the offence (Himmelfarb 1981) yet Jaywardene et al (1977) and Fagan (1978) have concluded that information has little or

no effect on attitudes to crime. Measurements of fear and seriousness of crimes have also been used to undertake the evaluation of urban services, notably the police (Peek et al 1978, Carlson 1979, Sharp 1980).

Fear as a measure of community response to crime may not be as useful a technique as supposed and this is not to question the fact that some crimes generate insecurity and fear - they undoubtedly do. Fear measured as a personal estimation of likely victimization or actual victimization, is insufficient as a measure of community response to crime or fear. It is not surprising, therefore, that fear and concern, although analytically distinguished are often measured differently and have been used interchangeably in many studies. Indeed, whether or not respondents comparative estimates of the seriousness of behaviours (as in the scale devised by Sellin and Wolfgang 1964) represents a measure of concern as suggested by Furstenburg (1971) is questionable. It has been suggested that moral indignation measures (those measures that require respondents to suggest an appropriate penalty for a given behaviour (Scott et al 1977)) may be useful at reflecting both fear and concern (Broadhurst et al 1981) particularly if we observe that fear as a response to crime may be subsumed by demands for retribution; that is fear and concern responses combine to sustain moral indignation generally and it is noted that community intolerance is most likely to effect crime rates. (Erickson et al 1979).

The focus of this study does not allow for a consideration of the merits of this point of view, primarily attention was directed at the extent the provision of information might effect a measure of moral indignation or retribution.

Some researchers (Lewis et al 1981:418) have advocated increasing the capacity of local institutions "*to exert social control, that is regulate the activities of residents*" as a means of reducing crime. However, fear of crime and other signals of social disintegration is



regarded as a barrier preventing active participation in the local institutions that act as a natural defence against crime and other threatening signs. Essentially Lewis's model of effective community crime prevention rests on a view that crime is dysfunctional leading to community disintegration rather than functional (as Durkheim argued) helping to cohes communities into efforts to combat its consequences and prevent its occurrence. Central to the model proposed are communicative, informed active citizens enabling themselves to exert control over events that occur within their communities. McPherson (1978) has argued that the provision of accurate information about crime at the neighbourhood level has this enabling effect directing attention and concern constructively. While generating information about crime through the mass media has produced equivocal results, (Sacco et al 1981) assessment of the evaluation of an extensive public health media campaign suggests *"The importance of supplementing a media campaign with personal contact and of working to increase knowledge prior to changing attitudes is indicated"* (Milburn 1979: 507). If information about crime and criminal justice is to have utility in community crime prevention, methods of dissemination require evaluation and embarking on expensive media campaigns 'selling community crime prevention' underwritten by a baseline of sound information. The 'lock up your car' and 'mark your property' crime prevention programme has on evaluation demonstrated marked displacement effects (Burrows et al 1979; Gabor 1981) however, the intention here is to examine the provision of baseline information rather than information designed to elicit a specific behaviour.

The information provided to the respondents participating in the study reported below consisted of general statistical information and similar hard fact data (see appendix 1) in the main about the nature of imprisonment and composition of criminal offences as officially reported. It is the kind of information you would not find in a newspaper or conventional crime

prevention programme. If anything the information resembles a simplified question answer summary of a criminal justice agency annual report.

It is this kind of information a policy maker would require if rational determinations about the use of punishment are to be made. It is asserted that an effect of the provision of this information is to reduce the extent to which fear and concern is generated by isolated, atypical or inaccurate accounts of crime and punishment. In addition the provision of such information may challenge some preconceptions about crime and introduce other factors for consideration to the recipient.

### Methodology

An empirical test was undertaken to examine a presumed effect of information on attitudes to criminal justices as expressed by a moral indignation or crime seriousness rating. A positive hypothesis was postulated: The possession of more correct information about the criminal justice system would reduce average moral indignation scores. That is people who received information about some of the dimensions of the criminal justice system would be more likely to have a lower moral indignation score than those who did not. A 10 to 15 percent reduction in the overall moral indignation as measured in a previous study<sup>1</sup>. (Broadhurst et al 1981) was estimated to be sufficient to reduce the level of moral indignation significantly.

Adopting the same survey methodology and questionnaire as employed in a previous small population survey of community attitudes to criminal justice samples were drawn and allocated to either a 'control' group (receives no information) or an experimental group (receives information). The self-administered questionnaire was mailed out with a postage paid return envelope and covering letter emphasising confidentiality and

asking respondents to return by a date one month hence<sup>2</sup>.

The questionnaire contained instruments designed to ascertain information levels, attitudes to sentencing (moral indignation), opinions about the criminal justice system and the demographic composition of respondents. Those surveyed who had been randomly allocated to the 'experimental' group received along with their questionnaire a brochure containing all the information required to answer the information section of the questionnaire. Information was operationalised as the number of correct answers to 25 multi-choice and scale questions (e.g. most prisoners are in prison for offences relating to; which of these statements most accurately describes parole?; how many offences were reported to the police in 1980?; what percentage of offenders are aboriginals? etc) and the number of correct answers was used to ascertain the level of information in the 'control' and 'experimental' groups. Presumably those respondents that received the brochure would score more correct answers than those who did not. Moral indignation was operationalised by employing a scale derived from a cross cultural study by Scott et al (1977) and consisted of 27 questions in vignette style designed to tap attitudes to various crimes. A two part response was required, the first asking respondents to indicate the suggested sentence or penalty for each crime vignette by the question "what sentence do you think he or she should get" and secondly, asking respondents to indicate what they assumed the sentence would be. Respondents selected from a range of penalties provided (e.g. from 'should not be a crime' to 'execution') and these were then converted to a number representing 'days in prison' for each offence, sub-categories of offences (ie, serious/violent crime, property crime, white collar crime, drug use, drug well and victim less crime) and overall<sup>3</sup>.

A measure of general severity of attitude (the opinion section) was included as a further dimension for analysis and this was operationalised as forty-one statements concerning crime and punishment (eg 'prisons should

be tougher; 'judges and courts are fair'; 'the police victimize individuals'; 'police should have more power' etc) scored on a five point Likert scale - strongly agree to strongly disagree. This enabled respondents to be divided into three groups; punitive (scores greater than 101), non-punitive (scores less than 91) and neutral (scores between 91 and 101) according to our operating definition of punitiveness (or severity) as a preference for the use of imprisonment. Thus four measures are engaged: suggested penalty or moral indignation (in days in prison); assumed penalty: (in days in prison); information or correct answers ( $x/25$ ); and a general measure of punitiveness or severity. These four measures were treated as variables in the comparison of mean scores between control and experimental groups with the measure of information (and time)<sup>4</sup> being regarded as the intervening variable to be studied.

Respondents also provided information about their age, sex, marital status etc. (see Appendix) and rated concern about crime with other issues such as foreign affairs, poverty, unemployment, inflation etc. Concern about crime was about the same as reported in the previous study, ranked after unemployment inflation and education.

### The Sample

Two hundred and sixty three (263) effective responses were received from a sample of seven hundred and twenty four (724) adult voters selected as follows; one hundred and thirty one (131) respondents from a sample of four hundred and ninety four (494) adult voters selected by random generated electoral roll numbers from Federal Electoral districts of Western Australia (except Kalgoorlie), half of whom received information providing answers to the twenty five questions in the information section of the questionnaires - thus of the 131 respondents, fifty three (53) had received the information<sup>5</sup> and seventy eight (78) had not, resulting in a low return rate of approximately twenty six percent (26%) overall; and one

hundred and thirty two respondents (132) from a sample of two hundred and thirty people who had participated in the previous study and who had indicated a willingness to respond to a follow up study. Of these 132 respondents, sixty one (61) had received the information and seventy one (71) had not, resulting in an effective return rate of fifty-seven percent (57%) overall<sup>6</sup>. Four respondents, one from each group, were removed before detailed analysis because their moral indignation scores were considered dubious as their scores for the serious crime (subcategory rape, murder etc) were less than one hundred and thirty days. Thus for analysis the sample consists of four groups and is also considered as two distinct categories; a previously surveyed group and a newly surveyed group to enable some control of effects as a consequence of time and volunteer commitment.

### Results

As expected those who received the information brochure scored many more correct answers than those that did not, in addition those who had undertaken the survey before did slightly better than those undertaking the questionnaire for the first time (see Tables 17 and 18).

Thus the brochure achieved the purpose of maximising the information accuracy of those who received it by a substantial amount, while the 'control' groups achieved much the same score as observed in the previous study. On average those who received the information got about 18 questions out of twenty-five correct and those with no information about eight questions right out of twenty-five.

In order to ascertain if any changes occurred with the passage of time, scores recorded in the previous study were compiled for those responding for a second time and compared with the results for that same group (132) in the present survey. Except for the difference in numbers of correct

answers which increased significantly as a consequence of the provision of information no significant differences (for test results see Table 17) were found. It was observed that this group of respondents did have on average a lower moral indignation score (approximately 1,183 days in prison) than the average for the previous survey as a whole (approx 1,296 days) indicating perhaps that sampling methods tended to select less punitive respondents, or that less punitive people are more likely to be concerned and continue participation. In this instance both the passage of time and the provision of information did not produce effects on suggested sentence, assumed sentence or general severity and thus enhances the validity of the previous data gathered by the mail out strategy in concert with the findings of Sheley (1980). The stability of this original group's attitude can be observed when the overall moral indignation scores are compared between the informed and uninformed where suggested sentence was 1,140 days and 1,176 days respectively (Table 20). However, this is not the case when those participating for the first

TABLE 17COMPARISON OF AVERAGE MEAN SCORES1ST SURVEY RESPONDENTS AND FOLLOW UP RESPONSESON FOUR FACTORS

VARIABLE	1ST SURVEY n = 112 JAN 1981	2ND SURVEY n = 132 DEC 1981	T VALUES
NO. OF CORRECT ANSWERS n/25	7.545 (38.639)	12.765 (6.124)	8.3420 *
SUGGESTED SENTENCES (IN DAYS IN PRISON)	1,183 (306,597)	1,157 (268,395)	-0.3305
ASSUMED SENTENCE (IN DAYS IN PRISON)	525 (79,112)	514 (66,727)	0.2625
PUNITIVENESS	100 (220,336)	99.143 (202,214)	1.2307

( ) OVERALL VARIANCE

\* P &lt; 0.05

TABLE 18

COMPARISON OF AVERAGE MEAN SCORES  
INFORMED RESPONDENTS : UNINFORMED RESPONDENTS  
ON FOUR FACTORS

VARIABLE	INFORMED RESPONDENTS n = 114	UNINFORMED RESPONDENTS n = 149	T VALUES
1. NO. OF CORRECT ANSWERS n/25	17.798 (25.632)	7.597 (5.283)	-21.8377*
2. SUGGESTED SENTENCE IN NUMBER OF DAYS IN PRISON	1,156 (334,762)	1,266 (321,370)	1.3151
3. ASSUMED SENTENCE	535 (94,233)	564 (68,303)	0.7020
4. PUNITIVENESS < 96 = NON-PUNITIVE > 96 = PUNITIVE	97.557 (210.748)	100.632 (219.633)	1.2307

( ) OVERALL VARIANCE

\* P 0.05

TABLE 19

COMPARISON OF AVERAGE MEAN SCORES  
ORIGINAL RESPONDENTS: NEW RESPONDENTS ON FOUR FACTORS

VARIABLE	A ORIGINAL RESPONDENTS N=132	B NEW RESPONDENTS N=131	T VALUES
1. NO. OF CORRECT ANSWERS n/25	12.765 (38.639)	11.267 (39.920)	1.9381*
2. SUGGESTED SENTENCES (IN DAYS IN PRISON)	1157 (306.597)	1280 (346.615)	-1.4979
3. ASSUMED SENTENCES (DAYS IN PRISON)	514 (66,727)	578 (79,207)	-1.3087
4. PUNITIVENESS GREATER THAN 96  LESS THAN 96	99.143 (202,214)	97.771 (210.993)	1.2307

IN BRACKETS ( ) OVERALL VARIANCE

\* P 0.05

TABLE 20

COMPARISON OF AVERAGE MEAN SCORES  
FOLLOW-UP SURVEY SUB GROUP ON FOUR FACTORS

VARIABLE	A ORIGINAL RESPONDENTS n = 132		B NEW RESPONDENTS N = 131		T-TEST VALUES (IN BRACKETS)	
	1. CONTROL n = 71	2. INFORMED n = 61	3. CONTROL n = 78	4. INFORMED n = 53	T VALUES A 1 : B 3	T VALUES A 2 : B 4
NO. OF CORRECT ANSWERS	8.085 (-16.0632*)	18.213	7.154 (-14.7748*)	17.321	(2.5135*)	(0.0378)
SUGGESTED SENTENCE (DAYS IN PRISON)	1,140 (-0.3198)	1,176	1,380 (2.093)*	1,133	(-2.2378)*	(0.3380)
ASSUMED SENTENCES (DAYS IN PRISON)	520 (-0.1745)	530	604 (1.0762)	540	(-1.6713)	(-0.1508)
PUNITIVENESS	98.817 (-1.6870)	101.337	96.410 (-1.3045)	99.774	(1.0109)	(0.5473)

T - TEST VALUE IN BRACKETS ( )

\* P 0.05



## SUMMARY COMPARISON AVERAGE MEAN - MORAL INDIGNATION SCORES \* 1

ORIGINAL AND FOLLOW-UP SURVEY (n=263)

	CRIME VIGNETTE NUMBER IN BRACKETS	ORIGINAL SURVEY JAN 1981 N = 279	FOLLOW-UP SURVEY DEC 1981 N = 263	ORIGINAL N-132 RESPONDENTS		NEW RESPONDENTS N-131	
				CONTROL N = 71	INFORMATION N = 61	CONTROL N = 78	INFORMATION N = 53
SERIOUS/VIOLENT CRIMES 1	Murder (9)	4064	4268	3515	4517	4890	4075
	Rape (21)	3311	3480	3360	3343	3929	3139
	Robbery (1)	2321	1964	1908	1706	2196	1998
	Aggravated Assault (13)	2859	2673	2649	2512	3041	2349
	Drunken Driver - Kills (12)	3597	3604	3242	3837	3887	3408
PROPERTY CRIMES 2	Burglary (Break and Enter) (2)	495	530	602	415	624	426
	Larceny (Steals > 100) (18)	353	302	258	370	310	274
	Larceny (Steals < 100) (5)	204	138	152	127	90	206
WHITE COLLAR CRIMES 3	Auto Repair Fraud (14)	317	253	162	254	336	253
	Bribery (7)	1587	1312	1227	951	1392	1723
	Oil Price Fixing (22)	1288	1101	1046	904	1390	978
	Negligent Drug Co (4)	3131	3154	3526	2520	3425	2984
	Illegal Land Deal (10)	677	638	660	372	673	867
	False Advt - Cost (16)	155	108	115	66	86	180
	False Advt - Quality (20)	230	194	160	150	242	223
	Tax Evasion (3)	146	144	208	232	50	94
DRUG SELL 4	Marijuana Sale (8)	2123	2041	2058	1762	2371	1852
	Heroin Sale (17)	5007	4629	4528	4524	5062	4248
DRUG USE 5	Marijuana Use (11)	316	323	152	288	580	214
	Heroin Use (23)	769	660	596	802	686	546
VICTIMLESS CRIMES 6	Suicide (25)	204	156	108	144	276	51
	Prostitution (24)	71	71	28	87	70	112
	Homosexuality (15)	100	122	177	80	182	10
	Illegal Abortion (19)	171	164	174	166	208	85
OTHER 7	Auto Theft (6)	144	179	221	206	200	61
	Bashes Stranger (26)	1119	997	941	932	1134	946
	Drunk Driver (27)	576	515	487	616	602	310
TOTAL		35,353	33,720	32,532	31,883	37,932	31,612

\*1 Moral Indignation scores are calculated in average number of days in goal for sentences suggested for each crime. (raw scores)

TABLE 22

## DEMOGRAPHIC COMPOSITION

	ORIGINAL RESPONDENTS		NEW RESPONDENTS		JAN 1981	DEC 1981
	n = 71 NO INFORMATION	n = 61 INFORMATION	n = 78 CONTROL	n = 62 INFORMED	n = 269 OVERALL 1ST SURVEY	n = 272 OVERALL 2ND SURVEY
<u>SEX</u>						
MALE	42.6	44.8	50	55.9	44.8	47.9
FEMALE	57.4	55.2	50	44.1	55.2	52.1
<u>EDUCATION</u>						
PRIMARY	5.9	1.7	6.7	10.3	4.7	6.1
SECONDARY	58.8	44.8	61.3	48.3	55.5	52.1
TERTIARY	23.5	37.9	24.0	22.4	26.6	26.4
TECHNICAL	11.8	15.5	8.0	19.0	13.3	13.0
<u>INCOME</u>						
LOW	31.7	39.6	34.9	26.7	38.3	34.1
MEDIUM	55.0	43.8	50.5	53.3	48.0	50.5
HIGH	13.3	16.7	14.7	20.0	13.7	15.5
<u>MARITAL STATUS</u>						
SINGLE	11.9	10.3	13.9	12.1	12.0	12.2
SEPARATED, WIDOW, DIVORCED	20.9	8.6	6.9	6.9	10.0	11.0
MARRIED	67.2	81.0	79.2	81.0	77.0	76.9
<u>AGE</u>						
UNDER 26	8.6	18.3	15.6	13.8	15.1	13.9
26-35 YEARS	24.3	31.7	24.7	22.4	29.8	25.5
35-50 YEARS	21.4	28.3	35.1	34.5	27.1	29.6
OVER 50 YEARS	45.7	21.7	24.7	29.3	27.9	31.1
<u>POLITICS</u>						
LIBERAL VOTER	47.4	48.9	63.1	36.0	50.0	49.5
LABOUR VOTER	47.4	31.9	29.2	44.0	35.8	38.2
OTHER PARTY VOTER	5.2	19.1	7.7	20.0	14.2	12.3
<u>ADMITS LAWBREAKING NO RELIGIOUS PREFERENCE NO MEDIA RELIANCE</u>	5.7	13.8	14.7	13.8	9.9	11.8
	22.1	34.5	26.4	27.8	29.5	27.5
	8.6	18.3	11.5	17.7	14.1	14.0

FOLLOW-UP SURVEY  
DECEMBER 1981RETURN RATE: DETAILED BREAKDOWN

<u>Overall</u>	<u>Number</u>
Number of questionnaires mailed	724
" " " returned undelivered	42
" " " returned	280
" " " incomplete	17
" " " effective	263
Therefore, % effective return rate	36%
<u>A. First Survey Group</u>	
Number of questionnaires mailed	230
" " " returned undelivered	3
" " " returned	135
" " " incomplete	3
" " " effective	132
Therefore, % effective return rate	57%
<u>B. New Survey Group</u>	
Number of questionnaires mailed	494
" " " returned undelivered	39
" " " returned	145
" " " incomplete	14
" " " effective	131
Therefore, % effective return rate	26%

time are examined, here the difference between those who are informed and those who are not is quite large with regard to suggested penalty (1,133/1,380 days in prison) and is significant ( $P < 0.05$ ). Also the difference between the uninformed original group and the uninformed new respondents is large on the moral indignation measure (1,140/1,380 days in prison) and is significant ( $P < 0.05$ ). Thus the overall results indicate a significant time and information interaction on overall suggested penalty or moral indignation as measured by our questionnaire.

Assumed penalty remained consistent across groups apparently unaffected by information or time factors, there was however a tendency for the new uninformed respondents to assume a greater average penalty overall than the other groups (ie 592 days in prison compared to 518 days in prison) but this was not statistically significant. Punitiveness when presented, as an overall calculation also did not vary as a consequence of time or information.

Treating the moral indignation results as an overall average of the twenty-seven crimes is a coarse method of analysis and the effects of time and information were explored for the sub-categories of crime outlined above, with a view to determining if the overall effect could be attributed to any particular sub-category of crime. In addition the effects (if any) of information had been regarded as if they were equally distributed over all groups irrespective of age, sex or other factors. Thus it was appropriate also to determine if any of the differences observed could be attributed to these effects and to control for these in order to see if the time and information effect persisted or was influenced in other ways.

#### Serious Crime

Surprisingly the time and information interaction observed in the overall moral indignation score was identified in only one crime sub-category -

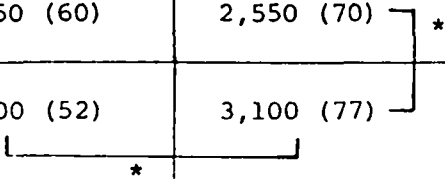
serious/violent crime which consisted of crime vignettes relating to murder, rape, armed robbery, aggravated assault and the drunken driver who kills. This time and information effect was sufficiently strong in serious crime to carry the effect overall; while it was observed that other sub-categories also reflected the same trend. Serious crimes, particularly those personal violent crimes categorised here are generally regarded the least subject to variability, the most robust and consistently condemned. The table below shows the time and information interaction for this sub-category. (Table 23).

In addition a significant age effect ( $P < 0.05$ ) was noted with young people ( $n = 100$ ) being more indignant than old people ( $n = 155$ ); young people suggesting on average 3,050 days in prison while the old suggested 2,550 days for the serious crime sub-category. A significant effect of sex ( $P < 0.05$ ) was also observed with males ( $n = 118$ ) being less indignant (2,500 days) than females ( $n = 131$ , 3,000 days). With such demographic factors operating and sample bias evident<sup>7</sup> the data was further analysed to assess and control for these effects, although superficially the direction of these effects suggested that they could cancel out. As table 24 shows females were more punitive than males in both the old

TABLE 23 SERIOUS CRIME: TIME AND INFORMATION BY SUGGESTED DAYS IN PRISON

Number of respondents in brackets:  $n = (x)$

Respondent Group	Informed	Uninformed
Old (130)	2,750 (60)	2,550 (70)
New (129)	2,600 (52)	3,100 (77)



\* $P < 0.05$

TABLE 1: THE TIME AND INFORMATION INTERACTION ON MORAL INDIGNATION FOR SERIOUS CRIMES

uninformed and new informed groups, but sex interacts with both information and time to produce paradoxical results.

The results shown on Table 24 make it difficult to sustain a presumed simple effect of information as previously stated.

TABLE 24 SERIOUS CRIME: SEX, TIME AND INFORMATION BY SUGGESTED DAYS IN PRISON

Number of respondents in brackets: n = (x)

RESPONDENT GROUP		SEX	
	INFORMATION	MALE	FEMALE
OLD	INFORMED *	2,850 (25)	2,686 (33)
	UNINFORMED	1,978 (28)	2,865 (40)
NEW	INFORMED *	2,161 (28)	3,221 (22)
	UNINFORMED	2,850 (37)	3,291 (36)

\*P < 0.05

In concert with the previous study a very strong effect of severity or punitiveness was observed ( $P < 0.001$ ) with those respondents classified as non-punitive ( $n = 108$ ) suggesting an average penalty of 2,200 days in prison for serious crime, while those classified punitive ( $n = 85$ ) suggested 3,300 days and those classified neutral ( $n = 66$ ) suggested 2,800 days. The distribution of these classifications was proportional throughout the groups and thus the result is substantial despite being a somewhat data dependent result<sup>8</sup>.

No significant effects were observed in 'assumed sentences' in the serious crime sub-category and the overall mean penalty assumed for this sub-category was 1,317 days in prison with a standard error of 50 days. The same method of analysis as outlined above was applied to the other

crime sub-categories and the results are detailed below.

White Collar, Victimless and Other Crimes

The crime sub-category white collar crime consisting of the following crime vignettes : fraud, bribery, price fixing, negligence, false advertising and tax evasion was analysed as above and no significant effects were observed in either assumed or suggested sentence of severity. The overall mean for suggested sentence was 862 days in prison with a standard error of 45 days, and the overall mean for assumed sentence was 273 days with a standard error of 27 days.

For the crime sub-category Drug Sell consisting of crime vignettes; selling marijuana, selling heroin no interactions were noted. A strong effect of sex and punitiveness was observed ( $P < 0.001$ ) with males ( $n = 118$ ) being less indignant than females ( $n = 131$ ): 2950 days in prison and 3800 days respectively. Non-punitive people ( $n = 108$ ) suggested 2,800 days in prison, punitive people ( $n = 85$ ) suggested 4,200 days and neutral people ( $n = 66$ ) 3,250 days. The overall mean number of days suggested for this crime sub-category was 3,400 days in prison with a standard error of 140 days, and the overall mean for assumed sentences was 1,470 days in prison with a standard error of 86 days.

Table 25 shows the time and information means for the Drug Sell category.

TABLE 25 DRUG SELL: TIME AND INFORMATION BY SUGGESTED  
DAYS IN PRISON

Number of respondents in brackets  $n = (x)$ .

Respondent Group	Informed	Uninformed
Old (130)	3191(60)	3339(70)
New (129)	3187(52)	3657(77)

They show a similar trend as for serious crime (Table 23) but the difference between informed and uninformed for the new group, although just as large as in Table 23 is not significant in Table 25 because of the much greater variability of the suggested sentences in this category. In fact the variance of the observations for the Drug Sell category is four times as large as those for severe crime, and this accounts for the less significant differences. A breakdown as in Table 24 for the series in the drug sell category also showed the unexpected result for males but again it was not significant.

For the crime sub-category Drug Use consisting of the crime vignettes; "*The offender is a person who uses marijuana*"; and "*The offender is a person who uses heroin*", the data was analysed as above but in two subsets - those suggesting more than 30 days in prison and those suggesting 30 days or less. 123 respondents suggested more than 30 days for these offences with a mean suggested penalty of 930 days (standard error 118 days) and slightly more than half (n = 143) respondents suggested sentences 30 days or less with a mean an overall mean of 1.3 days in prison (standard error 0.3 days). 196 respondents assumed the penalty for these offences to be greater than 30 days and this assumption was significantly different ( $P < 0.05$ ), depending on whether or not the respondent admitted to being a law breaker. Those who did admit to being a law breaker<sup>9</sup> (n = 24) assumed an average penalty of 600 days for these offences while those who did not (n = 166) assumed an average penalty of 480 days and a small number of respondents (n = 6) who did not say, assumed an average of 310 days. Only 9 of those who admitted to being a law breaker suggested more than 30 days for these offences. 51 people assumed that the penalty for drug use was 30 days or less with an overall mean of 1.5 days (standard error 0.4 days). No other significant effects were observed in this category. It is interesting

to note the strong polarization of the respondents attitudes to the seriousness of these offences at least in terms of the willingness to imprison those committing them.

The sub-category Victimless Crime consisting of offences relating to abortion, homosexuality, suicide and prostitution was also examined in two subsets, with 30 people suggesting sentences greater than 30 days (average 806 days varying from 90 days to 3047 days) and 229 people suggesting sentences of thirty days or less. (Average: 1.1 days; standard error: 0.3 days). 41 people assumed more than 30 days sentence, averaging 280 days, varying from 38 days to 3,300 days and 204 people assumed less than or equal to 30 days, averaging 4 days with a standard error of 0.6 days in prison.

Suggested and assumed sentences were analysed in three groups for the sub-category Property Crime. Those suggesting less than 30 days (n = 67) averaged 7.7 days in prison (S.E.\* 1.3 days) and 103 assumed 10.6 days on average (S.E. 1.2 days). However a significant age effect was observed in the sub-group of people suggesting between 30 and 720 days. Young people suggesting and assuming higher penalties<sup>10</sup>. A small number (n = 22) suggested sentences greater than 720 days and the mean average number of days in prison was 1670 days; assumed sentence mean was 1822 days (n = 3).

### Findings

What is interesting about this analysis of moral indignation is that those sub-categories, notably serious crime, that attracted the highest scores were most prone to differences when broken down by factors such as information, time and sex and this was in part due to less variance to responses to serious crime. The long standing or conventional view (eg Newman (1976); Scott et al 1977; Walker 1978; Sheley 1980; Broadhurst et al (1981)) has

\* S.E. = Standard Error



considered attitudes to these serious/violent crimes the least subject to such influences and those demonstrating most universal agreement. One should not over-emphasise this point as it can be clearly seen that such crimes do persistently receive the most moral outrage; it is the degree to which the attitudes to them appear to be influenced that is cause for interest. Notionally we might regard serious crime as producing the most harm and as a consequence assigning an appropriate level of moral indignation relatively easy when compared to assigning the appropriate moral indignation to less harmful crimes, or crimes in which the criteria 'harm' is diffuse, indirect or non-existent. We have assumed this should produce little variation with regard to attitudes to serious crimes reflecting a well recognised and strong community consensus (such crimes are not open to change or influence) - while crimes such as victimless crimes and drug use would exhibit substantial variation in community attitudes reflecting the inconsistency, and controversy over harm normally associated with abortion, homosexuality, marijuana etc. (such crimes are open to change and influence). The analysis of results in this quasi-experiment would indicate that such assumptions about the opinion nature of the desired degree of punishment as determined by the community cannot be sustained in terms of the potential for influence and change.

The moral indignation instrument employed in this study measures the use of desired imprisonment as the method of punishment (or retribution) and is insensitive numerically to other forms of punishment. Therefore the results require interpretation within this limitation, so we may say what is suggested by the above analysis is that the crimes that may be regarded as the least harmful produce considerable consensus in terms of an unwillingness to impose imprisonment as punishment, while those crimes regarded as most serious (and harmful) less consensus in terms of the amount or degree of imprisonment to be imposed as punishment. Thus when considering the results with regard to serious crime the degree of

punishment to be imposed (ie considered sufficient retribution) may indeed be reasonably expected to be influenced by information about the prison system, the passage of time (and all that implies) and the gender of the respondent. Whereas non-serious crimes may be less influenced because the choice of imprisonment as a punishment is less desired and moral indignation satisfied in other ways perhaps subject to the same or other influences which our methodology was inappropriate to explore.

In contrast the remarkable consistency on the average of our samples responses to their assumptions about the penalties imposed (ie their response to the question 'What sentence do you think he or she does get now?') while in concert and supportive of the previous study<sup>11</sup> remained impervious to influences such as time, information sex and so on. (The exception being differences in assumed sentences for drug use. With regard to the meaning of this measure the author speculates that assumed penalty may well reflect an estimate of 'public' opinion in contrast to suggested sentence which may reflect 'private' opinion. A 'public' opinion in this context reflects an assessment (of the 'public opinion climate') by the respondent of the public view of the appropriate or acceptable level of moral outrage, in other words a belief about the situation or issue that can be safely expressed to others. A 'private' opinion however, is one that need not take cognisance of the perceived opinion climate and the views of others (Noelle-Neuman (1979)). Certainly other factors may be operant<sup>12</sup> with this particular measure yet in crude terms the assumed penalty measure sought to discover what respondents thought was going on as distinct from what they wanted to happen. A distinction analagous to Noelle-Neumans' 'private' and 'public' distinction in relation to pervasive 'opinion climates'.

Table 24 shows that our hypothesis that the provision of information would reduce moral indignation cannot be supported by the results. While those participating for the first time showed a tendency to reduce moral indignation as a possible consequence of information (with males approaching

significance at the 5% level), those males participating for the second time showed the reverse occurring with those uninformed scoring less than those who were not ( $p < 0.05$ ). On balance there is insufficient evidence to support the hypothesis and it is rejected.

A simplistic and limited provision of information to a volunteer self-report group cannot expect to demonstrate substantial effects. In this instance effects are observed with information, time and sex interactions on suggested penalty evident. It is not my contention to argue that information provided to respondents did not have any effect on their attitudes to crime and punishment. To do so would be counter the wealth of observation that daily asserts the influence of the media and other forms of information and communication. It is rational to argue that information has a role to play in attitude change, and that the provision of information about crime will influence peoples' responses to the seriousness of events and the penalties to apply. This parsimonious quasi-experimental study illustrates that even relatively inappropriate and narrow interventions such as the current can demonstrate differences and similarities in attitudes to punishment as a consequence of events such as the passage of time and provision of information.

### Discussion

If we consider the effects of information on public (and 'private') attitudes to issues of public policy our attention focuses on the sources of this information and particularly the role of the media; the supply and demand for information about crime. With rapid changes in technology and the social structure reliance on the media as a disseminator of 'news' had become considered both critical and pivotal in efforts to develop crime prevention by the community. A good deal has been written in recent times about the mass media process in generating or reducing criminal and other behaviour. As a manufacturer the media produces news and information about events in society which are consumed

by the community as preselected interpreted facts 'billed' by the producers as objective and neutral. The Glasgow Media Research Group (1976) has shown that media 'objectivity' is at best an attempt at balancing the news. As an event itself, becoming 'newsworthy' has a dynamic of its own on a continuum with mass hysteria, (Cohen 1973, Humphries, 1980, Fishman, 1978, Kepplinger et al 1979, Ditton, 1979, Windshuttle et al 1981) <sup>13</sup> which is recognised by example in Anglo-Australian law by strong restrictions on prejudicial trial publicity. Of course what is of real interest here is the media's propaganda capacity, its influence disseminating and accessing (to power) activities. In theoretical terms the awareness or 'consciousness' raising nature of information dissemination, opinion climate formation and development is of acute importance to the political aspect of social control and a well worn road for ideological purists.

Critics <sup>14</sup> of the currency of the justice theory have argued that the rhetoric of the justice theorists have signalled a change of emphasis away from 'consensus' to 'coercion' keyed importantly to "... a control over how societal events are perceived" and concluding that "(A) moral panic is an accurate description of the historical events surrounding the emergence of the justice model" (Paternoster et al 1982:18). Indeed justice theorists may have established a strong claim to represent the public interest as Paternoster and Bynum have argued because "In determining which acts are to be considered serious, justice theorists have focused almost exclusively on one type of activity, 'street crime'." An emphasis for which the victim and community crime prevention perspectives may also be noted. It is precisely this emphasis on (serious) violent and traditional forms of crimes that has provided an opinion climate that perceives 'just desert' as the appropriate justification for punishment. Arguably justice theorists, supported by a new technology (the Victim/ Crime Survey) whose methodology best exposes traditional crime <sup>15</sup> have won the hearts and minds of the popular reaction to crime that

underpins the provision of the raw material for a vociferous media consumption.

Such a compelling proposition recognises something of the crisis that engaged the entire 'crime debate' in the late 1960's through to the 1970's, predicated by general economic decline and a petulant disillusionment with rehabilitation, particularly its failure to provide empirical proof. Salient evaluations of rehabilitation conducted in the mid seventies, while merely reinforcing much earlier conclusions about the effectiveness of rehabilitation programmes were seized upon as the 'scientific' signals for a change to simpler aspirations and goals <sup>16</sup>. It also became customary to view rising crime rates (and victim rates), prison riots, exposes of corrupt and brittle control agencies as symptomatic of more significant events or changes, such as genuine threats to the whole fabric of society, the social order and so on. Justifying as Clarke (1982) argues a revitalised concern for classicism 'vulgarised' as 'just dessert' and welcomed as a return to sanity and order. Embraced by those particularly involved in sentencing and prison management and providing the screen for a retreat from the demands of more ambitious goals.

Emphasising equality before the law; simplification of law and penalty based on harm; adherence to procedural forms and the fettering of discretion the justice model<sup>17</sup> in eclipsing the rhetoric of the rehabilitative model has increased the importance to be attached to an 'informed' or 'conscious' public. More pragmatically the importance of determining the seriousness of criminal behaviour. For it follows that if we are unaware or ill informed about the 'real' harm of some act or event the capacity to deal with it justly is weakened and problematic. Subjective considerations of seriousness and harm armed by moral enterprise selectivity and manufactured news is just as likely to be creative as definitive, and irrational as rational. The stress on retribution or 'just deserts' argued by some as essential to the justice model signifies a capacity

to determine harm produced and hence its consequent seriousness which in turn defines the ultimate penalty. The interplay between harm and seriousness is complex, difficult to quantify and most often treated and used as if synonymous. Many events in social life cause harm and of course not all are sanctioned by law or defined as crime. Many require remedial rather than punitive responses.

The polemic about the justifications and aims of punishment pervades the 'Vox pop' reactions to crime and manifests in the 'philosophical inconsistencies' (Singh et al 1978) reported by researchers into attitudes to crime. So the sensitivity of public attitudes to the administration of law is alone unlikely to provide clear directions for policy makers. The evaluation of law enforcement services and the social control function is however a primary purpose of attitude measurement and this utility warrants a reassessment of the place and importance of 'public opinion' in criminological theory as it has in classical political theory (Noelle-Neuman 1979). Theoretical concepts of the role of punishment have underestimated the extent that popular expressions of these justifications often censorious and fearful reflect crudely the political reality that 'all governments rest on opinion'. The principles of public representation; responsibility to the electorate; accountability and public policy; public service; juries; etc testifies to the value placed on 'public opinion' particularly in areas that generate controversy and conflict. Quite clearly the administration of justice is one of these areas and its effective operation central to most ideas of well being or common weal. It is thus not surprising to note the degree conflicting theories of punishment have sought ideological dominance at the expense of perpetuating the 'vulgarised' debate that confuses, obscures and endangers sound community management.

It seems apparent in the existing economic climate that concern ought to be directed at enhancing 'off budget' solutions to crime control as

distinct from extending existing models of law enforcement with their dependence on the provision of technologically sophisticated capital and labour intensive public services. The community crime prevention approach advocated by Lewis et al (1981), Maxfield (1980), McPherson (1979) and others offers such 'off-budget' solutions with the promise of an opportunity to put communities back in charge of the social events occurring about them and represents a fundamental return to basic municipal concerns. In addition it raises yet again the spectre of 'the tyranny of the majority', a fear that has persistently plagued the plethora of similar notions and schemes in the past.

One of the strengths however of the community crime prevention approach is the recognition that measurement and assessment of community perceptions and suggestions is a prerequisite step in utilizing the community in exercising effective control over crime. Such an emphasis has identified concerns, interests and understandings quite different from the expectations, concerns, interests and operational intelligence of the agents of law enforcement (Carlson et al 1979, Sharp 1980). As a substantial factor in the kinds of support control agents can expect at the reporting level community attitudes to crime have selecting characteristics that exclude many 'criminal' events from official attention and amelioration (Himmelfarb 1980, Kirnan 1980).

If we note the relative stability of public attitudes toward the causes of crime (Erskine, 1974/75) differences that are observed in attitudes toward the seriousness of crime may be a consequence of a sensitivity to immediate forms of information (events, media reports etc.) and perceptions about their own security and others. In addition the form and content of information and its method of dissemination can be challenged in specific legal instances (Schultz 1982).

So as a measure of fear (in the political sense) the degree of punishment desired by a community (sometimes manifest in the extreme by 'vigilantism' and tacit approval of 'official brutality') expresses itself in subjective assessments of public moods by political representatives at times of legislative action or inquiry. A recent government inquiry into the rate of imprisonment provides an example of the process (Dixon 1981 at pp 258-259), *"The Committee having isolated what appeared to be the main factors responsible for the high rate of imprisonment in this state then had to endeavour to find some means by which our rate of imprisonment could be reduced and THE CLIMATE FOR SUCH AN EXERCISE COULD HARDLY HAVE BEEN LESS PROPITIOUS."*<sup>18</sup>

*Crime and punishment have always had a certain fascination for the Community but there is now a much greater awareness of crime than has previously been the case ... as a result there is a strong feeling throughout the community in favour of increasingly severe punishments and harsher forms of detention."*<sup>19</sup>

In tandem with this kind of conclusion the perennial exhortation for better informed communities and control agents is identified as a necessary long term action for the ultimate (utopian) relief of the monotonous and persistent reality of crime. So crime is conceptualised as the stone to be weathered by the power of knowledge. An ideal community - the 'informed' community represents one very influential aim on the crime control agenda and uninformed communities have been identified as a significant factor in resistance to reform. The rationale is aptly illustrated in the following declaration *"A further duty of every citizen is to familiarize himself with the problems of crime and the criminal justice system so that when legislatures are considering criminal laws or appropriations for the system he can express informed views and when politicians make crime an election issue he will not be panicked or deceived"*. (Presidents Commission on Law Enforcement and Administration of Justice, 1967: 13).



Conclusion

Persistently the 'Vox pop' element in crime control has been characterised and labelled as severe, the impediment to sentencing and prison reforms of all kinds. Whether or not this is universally the case awaits further empirical evidence. What little we do know about public attitudes to crime and punishment shows that apart from the very serious personal violent crimes (and even here a monolithic picture fails to emerge) attitudes are remarkably varied and a pattern of exclusive or total punitiveness is not evident. Perhaps we can say that this is in part a consequence of the fact evident to many that the application of law is fraught with inequalities. In addition we detect marked differences in what constitutes the information we received about crime. The prosecution of some activities and not others demands a well defined and rational view of what constitutes 'harm' (and the appropriate response) to society and such determinations often represent ultimately differences in values, attitudes, aims and priorities within the community.

For the liberal the dilemma about crime has always been directed by a realization that; the law is often applied unevenly across society; that the justifications for punishment are predicated on assumptions of equality; and there is a capacity to measure harm on criteria removed from self-interest. Liberals have wanted informed and democratic communities to decide what is to be done with the dangerous. The fact that public conceptions of punishment for behavior regarded as crime now appears largely confined to a singular notion - imprisonment - (despite the fact that a large range of alternatives are available and have been and are used successfully) is problematic. Crowded prisons, congested courts, disconsolate victims and over worked public police are part reward for our reliance on this form of conflict resolution - punishment. Reference to populist sentiment supposedly in favour of greater punishment, has been a standard justification for

increasing or widening the use of imprisonment and close examination of public attitudes fails to support this monolithic 'public demand' rationale. The fact that this is so despite what must be regarded as a wall of manufactured information most often directed at the violent destabilizing results of crime is of no comfort either to those who seek retribution and revenge for its own sake.

1. See Broadhurst R., Indermaur, I., "Crime Seriousness Ratings. The Relationship of Information Accuracy and General Attitudes in Western Australia" i.e. that is around 180-185 days in prison over the average for all crimes. Probability was set at the 0.5% level. Refer to Appendix and Summary
2. See Sosdian, C.P. et al (1981) "Non-Response in Mail Surveys: Access Failure or Respondent Resistance". Public Opinion Quarterly Vol 44(2) pp 396-403 and Jones, H.J. (1980) "Generalizing Mail Survey Inducement Methods: Population Interaction with Anonymity and Sponsorship" Vol 43(1) Public Opinion Quarterly pp 102-112
3. Conversion of penalty to number of days in prison was based on the median point of each penalty category, for example: 'should not be a crime', 'fine' and 'probation' = zero days in prison; 'one weekend in prison = 2 days in prison; 'one month in prison' = 16 days; '5-15 years' = 3650 days; 'life imprisonment' = 7360 days; 'execution' = 9125 days.
4. The first survey was conducted in January 1981 and 131 respondents from this survey participated in the present follow up study which was undertaken in November 1981, approximately 10 months later
5. Originally 62 questionnaires were returned from this group, however, as the rate of missing data in the suggested sentence measure was of a high order in nine cases these were eliminated from consideration
6. This comparatively higher return rate bears out the utility of prior commitment methods, see Childers et al (1979) "Gaining Respondent Cooperation in Mail Surveys through Prior Commitment" Public Opinion Quarterly, Vol 43(4) pp 558-562

7. DEMOGRAPHIC BREAKDOWN: SEX AND AGE

Adjusted Freq	Old Uninformed	Old informed	New Uninformed	New Informed
♂ Males	42.6	44.8	50	55.9
♂ Young	32.9	50	40.3	36.2

8. That is the results are determined by the logic of the arbitrary classifications although as it is devised from and supports the conclusion of a previous study. Punitiveness is significant again only in the drug sell sub-category
9. Those saying yes to the following question, "have you had any personal experience with the police as a lawbreaker?"
10. Age effect on property crime for people suggesting and assuming prison sentences between 30 days and two years.

	Mean Suggested Sentences 30 - 720 days	Mean Assumed Sentence 30 - 720 days
Under 35 years age	310.5 (72)	212 (58)
Over 35 years age	224.6 (92)	128 (80)
Unknown	135.0 (2)	348 (2)

n = ( )

11. In the previous survey assumed penalty was as in the present study persistently one half or less suggested sentences and not correlated with information, punitive group or the demographic factors
12. As missing data was much more frequent in the assumed penalty than in suggested penalty it is reasonable to consider that more guesswork was required or less respondents had an opinion to express at all, see Bishop et al (1980), "Pseudo-opinions on Public Issues" Public Opinion Quarterly
13. For example Cohen (1973 : 16) comments "A crucial dimension for understanding the reaction to deviance both by the public as a whole and by agents of social control, is the nature of the information that is received about the behaviour in question" and "the student of moral enterprise cannot but pay particular attention to the role of the mass media in defining and shaping social problems. The media have long operated as agents of moral indignation in their own right even if they are not self consciously engaged in crusading or mudraking, their very reporting of certain 'facts' can be sufficient to generate concern, anxiety, indignation or panic."
14. See for example, Taylor, Clark, Norrie, Paternoster, and Bynum Contemporary Crises Vol 6, 1982
15. Crime victim research has generally confined itself to mapping out the nature and extent of crimes with readily identifiable victims which excludes most of the white collar, corporate and official crimes which presumably might constitute significant quantities of unreported crimes of incalculable 'harm'
16. It is curious to note the generally positive reaction to Bailley's (1966) devastating review of the state of rehabilitation compared to Martinsons and Liptons et al (1974, 1975) equally gloomy evaluation which perhaps more than other reviews hastened the demise of rehabilitative goals. As Gottfredson (1981) argues the point is still moot and the current eclipse has all the signs of throwing the baby out with the bath water. Rehabilitation was persuasively identified with the indeterminate sentence and the worst excesses of the individual treatment model
17. See for example the work of Von Hirsch, Van Haag, Fogel, Hawkins and others. Consider, "One of the limitations of the justice model has been its focus on the individual offender and his just deserts to the exclusion of considerations of punishment and justice in a broader social context. Individual rehabilitation is in danger of being replaced by a purely individualistic version of retribution. The development of a framework for the individualization of punishment is indeed a key element in our reformulation, but the concept of 'just deserts' also needs extending in the direction of a more 'socially justified' philosophy of punishment." Bottomley, A.K. (1979: 149)
18. Author's emphasis
19. In full context the quote is "Crime and punishment have always had a certain fascination for the community but there is now a much greater awareness of crime than has previously been the case. Television and the mass circulation newspapers give considerable prominence to crimes and particularly to those of violence. Apart from the reporting of actual crime the television set brings into the living room a steady stream of 'drama' concerned with crimes of the most lurid nature. Not only does this increase the public's awareness of crime but both the reporting of real cases and fictional crime combine to give the public a somewhat distorted view of the nature of both crimes and those who commit them. As a result there is a strong feeling throughout the community in favour of increasingly severe punishment and harsher forms of detention."

CHAPTER FIVE

CRIMINAL JUSTICE AND THE COMMUNITY

*"Openness is the natural enemy of arbitrariness and a natural ally in the fight against injustice"*

K.C. Davis.  
1969

*"Politicians who pay themselves huge salaries are continually introducing new forms of unnecessary interfering legislation that it becomes increasingly difficult for the ordinary citizen to remain law abiding thus filling our prisons with wrongdoers instead of criminals".*

A survey respondent, age 84  
1981

### The Courts, Prisons, Police and the Community

There is no effective theory of punishment, there have of course been many explanations, many themes have currency. For some punishment represents a sublimation of our collective aggression, an intrinsic need to justify collective violence through a scapegoat. Other notions have simply equated our various practices of punishment over the centuries as consistent with our ways of behaving, that is, forms of punishment are always consistent with our culture, and as our culture changes so do the forms of punishment. Still more notions have linked the degree of punishment to the social structure particularly the economic situation. Extremely punitive acts against offenders occur for example when the value of labour is low, when labour is scarce we are inclined to preserve the offender so that he might help populate colonies or provide the manpower for public works. Other theories have suggested that punitive reactions stem from the particular economic and social vulnerability of the 'petite bourgeoisie', and that in addition to offences that attract collective values a whole range of other offences are also incorporated as targets for punishment. The amount of punishment then is also linked with the degree of social disorganisation; heterogeneous societies are more punitive than homogeneous communities because in the heterogeneous society social values are more likely to be in conflict and to be resolved by recourse to punitive action by dominant values over the minority values.

It is not difficult for us to recognise all or some of these theories of punishment in the popular justifications for punishment and it is well to remember that, *"we must not say that an action shocks the common conscience because it is criminal but rather it is criminal because it shocks the common conscience"*.<sup>1</sup> We have seen that this 'shock' component can be greatly exaggerated through information processes that in the long haul perpetuate myths about certain behaviours and methods of dealing with it. Relatively

innocuous behaviours, behaviours that don't threaten collective existence take on special significance sometimes in the minds of those assigned the task of administering the law. Both the examples of tobacco smoking and football which were both at various times in history severely repressed by the state serve to illustrate that outright suppression of behaviours considered at one time or other dangerous, such repression seldom succeeds as well as laws or rules that attempt self-regulation or orderly control and management. If we recast our eye over the results of public opinion surveys that reflect community attitudes to certain behaviours defined as criminal we will find quite a few that fail to qualify as behaviours that command the collective reprisal of punishment.

The object of punishment has a multiple rather than a singular purpose. From time to time jurists, politicians, criminologists have singled out one purpose or another as the major, significant true or 'real' aim of punishment. Deterrence, rehabilitation, redemption, expiation, control, protection, vengeance, undoubtedly have their place in the apologies for punishment. However, above all punishment occurs because sentiments are outraged. A criminal 'pays for his crime' when he is punished, 'he pays his debt to society'. Punishment therefore has the object of settling accounts. Imprisonment weighted for an 'eye for an eye' is now the principal mechanism of punishment, of settling our scores when our sentiments are offended. While there is most certainly, perhaps even more so today, a proliferation of so called 'alternatives to imprisonment' from probation to weekend imprisonment, the substance to these alternatives is the threat of imprisonment. Arguably alternatives to imprisonment are not alternatives at all but extensions of imprisonment<sup>2</sup> for underlying and at the crux is the need to sanction behaviour that threatens the existences of individuals and communities. *"The instinct of vengeance is, in sum, only the instinct of conservation exacerbated by peril. This vengeance is far from having*

had the negative and sterile role in the history of mankind which is attributed to it. It is a defensive weapon which has its worth, but it is a crude weapon." <sup>3</sup> While it is possible to assert the functional utility of vengeance controlled by an economy of punishment we now experience as imprisonment, it is, as Durkheim recognised a crude form of social defence. Leaving aside for the moment the technical deficiencies, inadequacies and injustices of our penal laws and methods we must understand that these laws are expressions of our official sentiments and moral beliefs.

Regardless of defective administration, selective enforcement or gross injustice, the overall import of punishment is the reaffirmation of our moral position towards the behaviour we desire (or at least require for our own safety) from our fellows. It is significant that over time the moderation or economy of punishment has served a more useful role than any excess of punishment which may satisfy base desires but in itself seldom reduces the behaviour. With regard to many crimes our moral position is one of obvious necessity and we punish murderers, robbers, rapists and so on because they would obviously make life intolerable for each and all - life might become more precarious, more unpredictable if we did not act most firmly to minimize such risks to well being. There is no need with such crimes to appeal to some intrinsic moral truth to enact laws to extract the appropriate punishment for transgressions - such laws have merit on grounds of pure reason. We could not adequately form into society without such sanctions lest our contact with others did jeopardise life and the means to survival. Yet not all penal laws are so basic or fundamental: a great many of those that mesmerize our conduct are regulatory and attitudinal - that is they order and prioritise our values.

Of course there will be frequent disagreement as to how to go about punishing the behaviours society has identified as criminal but essentially these



disagreements are really about the form of enforcement and how much punishment, how much imprisonment. From time to time in the history of mankind the determination of how much punishment was pre-eminently a public matter, the public was the supreme judge. In Republican Rome and Athens under Solon it was the public that determined the amount of punishment meted out to the wrongdoer. In some jurisdictions in the United States a limited capacity for the jury to determine the punishment occurs and in some Middle Eastern cultures it remains for the public to carry out and participate in the punishment of a wrongdoer. The judge might determine guilt but not punishment. The remnants of this public involvement in determining punishment is now a quite sanitised and removed process systematically defined in statutory minimum and maximum penalties prescribed in codes and laws approved by whatever dominating political and value system operating.

In Anglo-Australian law, perhaps rather illogically a lay group of citizens, the jury, determine the often technical point of guilt and the 'expert' judges the degree of punishment. Why this is so is a complex point of principle now somewhat obscured - suffice to say that the 'expert' is only marginally if at all better off for this result of historical development. The rationale time and again for the de-emphasis in the role the public play in the allocation of punishment and vengeance, in its defence and in its name has been the characterization of public vengeance as heinous and dangerously severe to the point of dysfunction.

In modern times the control of punishment has been a primary and often successful element in the controls exerted by government, and governments have universally been loath to relinquish such control to citizens alone to determine - and we have been convinced often on humanitarian grounds that this is right and proper. For public passions have been recalled and remembered as the ghoulish crowds of pre-twentieth century executions and punishment

epitomized for the English by the ravenous revolutionary crowds of 1790 France. The point is entirely moot as Foucault (1977) has shown, public tastes for vengeance were mostly idiosyncratic and unpredictable and not without great sympathy. Given the ignorance and minimal control over such events as the public executions, public participation in justice was often cultivated to the 'spectacle' of punishment by central and powerful authority for symbolic demonstration reasons rather than for any intrinsic purposes. Thus the allocation of punishment became a matter of exercising authority and control primarily and not in itself a reaffirmation of basic values and priorities, a consensus of community sentiment or even a settling of accounts - the symbolic restoration of a wrongdoer by suffering. If indeed a bargain has been struck between the public and the governors in relation to the application of punishments then it has been struck on the abrogation by the public for determining the amount or degree that punishment shall be inflicted. In the present, as in the past the 'bargain' is a controversial one and both parties, the state (which after all asserts a crime against one is a crime against all) and the community have hardly abandoned the field entirely one to the other.

Judges who determine the severity of punishment do so on grounds that principally focus on the specific criminal behaviour - the seriousness of the offence and any factors that in essence excuse the offender for his actions. Of these 'excuses', considerations centre on the offenders intentions, their culpability, the seriousness can be mitigated or exacerbated by the circumstances of the event and of the individuals involved. The same processes are adopted by the public. There are obviously myriads of these circumstances, nuances of the behaviour and situation that are determinants of the framework by which the judge (if not the public) arrives at an ideally rational decision. Most often the factors are highly particularized but judges may and do call on their gauging of public sentiment or the need to make examples of some cases for the benefit of general deterrence - these

amount to apologies for the descretion of the judgement. We have already observed that judges belong to an occupational culture arguably removed from the mainstream of public life and culture. No matter how 'beneficial' this distancing may be to impartiality it is not without its disadvantages and in society where generally inequalities are a reality, it is hard even for the casual observer of the lower court not to see the justice dispensed take on all the appearance of a production line. This process of judgement which rests on the principle of discretion and control by and large does not defer to public sentiment in the particular for fear that to do so surrenders to whim and subjectivity.

One cannot help feel some disquiet when the judiciary and for that matter the other arms of justice, the police and prison, as a matter of accepted practice can state as firmly as Justice Hutley of the NSW Court of Appeal "... *that any proper assessment of the legal profession in society begins with the rejection of the view that society ... is capable of having needs to which the legal profession is or even should be responsive.*" <sup>4</sup>

Expressions very similar to the above are characteristic of the other agencies of justice, the police and the prison.

When we consider the key monopolistic role the judiciary and the legal profession plays in the processing of justice, our anxiety is heightened when a conscious regard for the administration of justice is supported by nothing short of a rejection of the part social, political and economic forces play in the situational circumstances that lead to crime. These very same forces predominantly shape the nature of inequalities at their source to such an extent that even a highly dedicated, competent and altogether ideal criminal justice system would be pressed to provide an equality of justice. <sup>5</sup> As it is the imperfections of our criminal justice system serve really to illustrate these inequalities, while for the very worst and obvious trepidations against individual well-being the vengeance

of punishment serves a "crude defence."

So far what has been said about the legal profession as a whole in a sense applies to the administrators of punishment - insofar as both have a proclivity to relish the isolation from the mainstream of social events and change. For the prison service this isolation which is an obvious one of physical separation is from time to time also a truculent one; decrying the public for its lack of understanding of the very great difficulties prison service entails, the service has traditionally kept the public (and even the legal profession) at arms length. Demoralised by the poor status and regard commonly associated with the 'keepers of the damned', conscious of the very great stigma and condemnation the prisoner is held by the public at large the prison service en masse has quietly retreated behind the walls to run a society within a society.

Deeply distrustful (and on the record perhaps not without justification) of the periodic reformatory moods of the public and the occasional liberal administrations a whole ethos and culture of remarkable values has evolved between guards and guarded quite foreign to the mainstream, 'straight' community on the outside. The public of course, as we have noted before, has at least an ambivalent attitude to this network of pan-options and on this basis not surprisingly prison officers have chosen by and large to ignore the community, particularly the fickle opinions with which they have come to characterize the community at large. However, prisons remain within shouting distance of the 'straight' community and 'shout' they occasionally do. Protected more than many other government agencies from the review of the community, justice, or rather the rule of law in prisons, is the most arbitrary, most subjective, most particularised and most trivialised of all. Here with relative impunity, discretion is at its zenith, away from the continual scrutiny of a variety of cross currents of

opinion, the dominance of singular attitudes and values cement together so that years of experience distil to repetitive, routine, reinforcing hate. Both prison officers and prisoners unite together in their singular dislike for each other. Yet progress out of the constant surveillance of the prison is dependent on accepting this entire state of affairs as 'natural', by striving to negotiate, manipulate and model. The prisoner finds life on the outside often more difficult to cope with than the one he has become accustomed to inside. He finds his attitudes, opinions and behaviours substantially at variance with those with whom he is to re-integrate with after 'paying his debt' and suffering the rehabilitation. Who understands except another prisoner or prison officer?

Of course this whole process is well understood by many within the prison system and its consequences repeatedly documented - its an accepted outcome incapable of ever changing. Earnestly devising countless schemes to make prison more manageable, more secure, more useful, more humane, more 'realistic', better equipped, better housed, clothed, fed and so on, prison administrators succeed only in making this 'exquisite' punishment of imprisonment a formidable obstacle of entrenched self-validated attitudes and opinions about human morality. Able to blame an unforgiving public, original sin and incompetent upbringing, the prison accepts back in self-satisfying reassurances persistently at least half of its clientele.<sup>6</sup> This devastating record well known by the public serves to justify the public's rejection of the ex-prisoner, after all they end up back inside, and so the cycle goes on reinforcing itself in a self-satisfying reinforced non learning way. Piously we wring our hands in despair and the judiciary hasten to abrogate their judgements to the managers of 'good government and order', who enjoy a privilege few governors can claim - governing without the goodwill of the governed and for that matter the public outside as well. Hume's principle

is however not entirely rejected as Sykes (1956), Emery (1961), Packer (1969), Mitford (1975), Fitzgerald (1977), Nagle (1978), Thomas (1980) and others have observed prisoners and prison officers strive for the 'quiet life' and prisoners conform to behavioural principles by wanting to do their time easily. Thus an effective if uneasy peace prevails and the business of processing and punishing illegalities continues unabated.

Meanwhile, the community, fed on a diet of extreme crime real and fictional, confused in the particular and severe in the general, fluctuates ambiguously between a variety of opinions which inconveniently oscillate between fear and concern. In general this results at best in apathy, at worst in antipathy. Removed from observing and administering punishment, deprived of information, attitudes towards imprisonment have become unimaginative, unaccepting, intolerant (too lenient - too severe) and above all uncaring. The suffering is not seen therefore it is not done. It is easy to see why abstract demands for more 'severe' abstract punishments or sentences can replace the demands for vengeance and compensation. After all, victims of crime receive scant attention from the state and not infrequently decidedly unsympathetic help from the public.<sup>7</sup> Seldom does imprisonment more than vicariously satisfy the needs of the victim and relatives. Seldom are the restitutive and reconciliation possibilities negotiated, in cumbersome fashion the state, the law and the prison usurp these possibilities. The monolithic response of the state is an incompetent and bureaucratic settler of disputes - order is restored but the problems remain. Invariably the response of this apparatus, in the eyes of both victim and offender, is one of dismissive disinterest or commanding total control. The agency most likely to mediate a dispute or apprehend and comprehend an illegality is the police and their perception of events is critical. Most opportunities for peaceful, realistic and harmonious interventions lie within the gambit of police work - peacekeeping. The work of the police is the most important source of community perceptions of justice and it is appropriate to recall that the very introduction of

modern police forces was greeted with very little enthusiasm. Lord Peel, the founder of the London Metropolitan Police, on which other centralized forces were modelled was denounced at the time in the staid *times* as a potential dictator.<sup>8</sup> The early years of policing was characterised by deep-seated distrust in the community of both the idea of 'military' style policemen and the incorporation in the body politic of a powerful civil force readily available to the civil authorities. Naturally this connection between a 'protective' force and political leadership has always been controversial. Regard for police as an independent and impartial enforcer of law has always been seriously flawed by this necessary relationship with political leadership. The history of the police is replete with countless examples of improper uses of police by civil powers - and seldom has the issue been effectively resolved. The dismissal of Commissioner Salisbury by the South Australian Government over the nefarious activities of the police Special Branch is a classic example of just this problem. Examples such as this challenge our basic understanding of how the potentially very powerful instrument of policing is to be controlled, reviewed and implemented.

Progressively from the late eighteenth century on our communities have become less and less homogeneous, and individuals less subject to the constant scrutiny of their neighbours and the social group. The growth of large cities, rapid forms of transportation and the dislocation of large groups of people have diminished the capacity for informal controls such as ridicule, gossip, the withdrawal of affection and respect, and so on to maintain order. Undoubtedly police forces were a necessary response to these changes in social structure, yet this potentially anarchial situation was and is by no means complete or universal. It is not the police force that ensures lawfulness, order and peace but rather as Michael Banton (1975) notes because "*Most people obey most laws willingly*

*whether or not there is a policeman looking on. They comply with the laws because they believe them right and perceive that in the long run it is in everybody's interest to observe them".*<sup>9</sup> Most policemen recognise that this is true but the reality of policing, by virtue of the job, is that policemen usually see the worst side of human nature. As an occupational hazard this jaundiced view of the community reinforces occupational solidarity and they commonly suffer rather extreme traits of suspicion, cynicism ( a rather special form of suspicion), touchiness and prejudice.<sup>10</sup> All this leads to a highly ingrained conservatism, which while not entirely unhelpful in every case is nevertheless a significant barrier to innovative practice and responsiveness.

Policemen principally see their main purpose as the detection of crime yet policing by and large involves very little crime detection. As many studies of policing have shown <sup>11</sup> the great bulk of police work is informal applications of the criminal law, (discretion, cautions, selective deployment), and routine service orientated work involving often work similar to social work and crisis management. The fact that in general police would prefer to reject this socially orientated aspect in order to devote time to catching 'villains' is a source of much role conflict and leads to an artificial distinction between the maintenance of order and law enforcement. The public image tends to support this misconception of policing as a rather dramatic game of 'cops and robbers', yet evaluations of policing have shown the community treasures the service and social role of police rather a lot more than any success police may have with catching criminals. Values such as helpfulness, courtesy, advice, compassion, 'being there', and so on are the virtues the public warmly responds to and it is to the credit of police that they have not allowed entirely the pursuit of professional status to blind them to this rather basic aspect of their relationship with the public.



In fact critics <sup>12</sup> of the police pursuit of professionalism (an attempt like prison officers to improve status and dispel public disrespect) have regarded it as involving the appearance rather than the substance of professionalism. There has been no solid development of police ethics, autonomy, systematic extension of knowledge, humanitarianism and professional societies, etc which typifies the other professions. In addition the push for professionalism has tended to leave the 'old guard' rather cold, for professionalism enhances the pressure for more rigorous, centralized, and impersonal law enforcement. Such an approach combined with a 'crime control' rather than 'peacekeeping' theme tends to exacerbate the conflicts between the police and the community. Full enforcement of the law is likely to be regarded by the community as a considerable irritant. For example the rigorous enforcement of gambling laws, despite its illegality would be in Australia very unpopular and it would be the police ultimately who would suffer from the double-standard the community applies to such matters.

To conclude these few observations about the police without raising the important subject of corruption would be to sadly misinterpret the widespread belief in a large segment of our society that police corruption is endemic to police forces in general. I think that public opinion is not entirely mistaken, yet I am of the opinion that much of what passes for corruption arises out of a failure of the police to recognise the need to convince the public that the methods for uncovering and coping with police corruption are extremely difficult to implement in a practical way. While police themselves recognise the enormous difficulties involved in detecting and successfully prosecuting 'bad' police, they have also preferred to resist the development of procedures that allow for the appearance of effective review and investigation which are 'open', to the public. I am sure police are sick to death about being nagged about this issue, by academics, lawyers, civil libertarians, minority groups and others, however

in the long run the more police can be open about what they are doing and how they do it the more likely public respect which has declined in recent years can be restored to the level where police can themselves be sure that support for them will be willing. Defensiveness will dominate the relationship between police and the public: it is up to the police to show the way. For the ordinary (mostly lawabiding) citizen to have faith in the law is a reassuring matter, not to have faith, to feel that police are excessively secretive and uninformative, to feel that occupational solidarity hides a sordid story such as the corruption, graft and incompetence that reigned behind the implacable, terseness of Scotland Yard<sup>13</sup>, is intricately damaging.

In summary then we can say that the agencies of the criminal justice system are from, at least the occupational perspective, at variance with the community they serve. There are few bridges between the judiciary, the police, the prison and the public. What few bridges there are, remain blocked and somewhat damaged, they are in need of repair and new ones need to be built so that a dialogue and flow of information between the law and the community it serves is maintained, improved and strengthened.

#### Some Suggestions for Reform

The citizen interested in a just community inevitably asks the question - what kind of changes ought to be made to our legal and criminal justice

system, 'to make it better'. If we, the public, are as dissatisfied with our legal system as the data from the opinion surveys reported here and elsewhere suggest, what kind of reform needs implementation? One is tempted to view all kinds of reforms as somewhat illusory, certainly many reforms that have been implemented since the World War have appeared to have very little impact<sup>14</sup> on both the nature and practice of justice and the inequalities in our society. Of course many of the targets of reform programmes are intractable structural and attitudinal problems well beyond amelioration of even the best equipped, supported and intentioned of interventions. Over the last few years there has been a steady retreat from the reformative positive efforts of our 'naive' forebears - having come to an impasse, the passion for reform which has so marked the history of justice in our society, has reached a tired middle-age. An insidious cynicism that nothing can be done and that nothing is worth doing because the hoped-for results are doomed at the outset is pervasive. In such a climate consolidation soon becomes stagnation, idealism is debunked and reform regarded as an unnecessary complication. The failure of much reform however, can be seen as a consequence of tactics, reforms like laws that are imposed seldom succeed and are costly all round. Changes that are directed by the concerns and priorities of sectional interests, or that are aimed at priorities held in low value by the recipients of reformists goals are indeed likely to fail.

If the reformist position is bankrupt or unnecessary then is it merely a question of adjusting our expectations? I am inclined to agree that there are fundamental limits to the capacity of the criminal justice system, in particular the prison and its existing alternatives to be little more than a crude and heavy handed mechanism of social defence. If we are to adjust

our expectations to more 'realistic' ones then our major task will be to adequately inform our communities about the state of the art. One of the incessant weaknesses of our approach to crime has been the failure of the experts and specialists of the system to involve the community and to be frank about the problems.

The system, ladened with a myriad of intricacies, rules and laws which Becharia would still undoubtedly find obscure and complex has long arrived at the point that strenuous efforts are required to simplify the law. We need to be in a hurry about this; our communities are undergoing rapid change, the nature of our lifestyles, technological structures and economic exchanges are under considerable stress, our legal systems (our formal moral ethical codes) which guide and govern the minimum standards of behaviour need to be reassessed. Laws that do not stand the test of Mills' 'simple principle' about the proper relations between the governed and the government should pass to the moral persuasive efforts of our communities in collective self-regulation (through the important social reference groups and our educational system) rather than by dint of haphazard and often half-hearted and selective law enforcement.

There are quite a few of our criminal laws that are prime candidates for removal from our statute books and the small but powerful minority groups who still cling to the myth that their moral outlook ought to be sanctified by law regardless of the consequences, should now look to the merit of the issue rather than the authority of the state to persuade the many who disagree. In public opinion surveys over the last decade collective values favouring the penalization of gambling, prostitution, abortion, homosexuality and drug use have changed substantially and significantly enough to compel

legislators to remove penal laws relating to these behaviours without further delay or at least put the matters to referendum if they fear savage ambush from a vocal minority.

Our attention must however, focus on the broader issues and the changes that we must seek to explore much more long-term than the passage of some behaviours, however stormy, from the 'crime control' net to grassroots community care and regulation. The suggestions that I make below are I believe intrinsically conservative reforms based as they are on involving ordinary people in the decision-creating activities of the state and community. Like Dicey, I see the basic caution of the 'public' as the important factor in the development of 'good and wise' laws. And the ultimate purpose of the government should, after all, be the attainment of the minimum amount of government compatible with essential collective needs. I cannot attribute any originality to the reforms and ideas suggested below, they are not new, radical or revolutionary but rather old and sadly neglected.

1. The easiest 'reform' to implement and the most obvious is to provide the community, the 'public', with more information, unprocessed by commercial journalistic priorities, about the criminal justice system. One very simple way of doing this is to require public agencies, prisons, courts and police to reproduce the fundamental substance of their annual reports in the public press. One or two full pages of newspaper space of information about the agencies should be provided to the public in much the same way the annual reports and meetings of public companies are reproduced in the daily press. There is little to be said for the present arrangements for disseminating information about the activities of these important public agencies and services other than to say that at the moment very little effort is expended in getting this information

to the general public. Of course some controls on how this is to be done will be necessary in order to avoid turning an exercise in informing into a two page advertisement for the government of the day. I am inclined to regard the annual requirement of having to present the 'fortunes' of the police, courts and prisons to a wider forum and audience than parliament as having more than a symbolic effect on the attitudes of those that are engaged in our service.

2. Our communities are ripe for the wider and more frequent use of the referendum as a salutary vehicle for expressing public opinion of the day. The mechanism of the referendum is a useful adjunct to the stability of representative government, it has however enjoyed little use in Australia and other 'Western' style democracies, largely because of the restricted form of use and the record of failure. The principle objections that referenda usurp the eminence of duly elected legislatures and that referenda do not lend themselves to complex issues are over-rated factors in the general disrepute of this particular vehicle for expressing public will. Certainly the referendum is not applicable to all issues of public import nor is it appropriate that they constitute a principal activity of legislators. It is clear nevertheless, that some issues including the determination of criminal behaviours can be reduced to relatively simple statements readily put to the vote. As it is the objection that the community is misinformed, unable to understand or too ignorant to have placed before them matters for their direct consideration is in itself an arrogant assumption increasingly spurious in a society that supposedly enjoys a high standard of education and sophisticated communication technology. While the question of misinformation is important, one suspects that the challenge of putting a question to the people would enhance efforts to inform and debate real issues of conflict. In addition direct involvement of the community on more

frequent occasions on particular issues and subjects, rather than the periodic broad platforms of party political elections campaigns, may better enhance the prospect of wise directions for change. The danger that referenda reduce the stature of parliament is a fear that has some grounds in a democracy that separates the executive from the legislative but has less relevance in our own constitutional system. The frenetic nature of referenda campaigns does indeed place political leaders in a situation where the clarity and decisiveness of their views and beliefs is most apparent - perhaps this may account for the little innovation in the use and form of referenda. One further objection to the introduction of direct utilization of public opinion has been the generally conservative reactions of communities; 'no' reactions have been the more common response, yet this is not a sound reason for disuse. When contemplating legislation that will define a class of behaviour as 'illegal' or no longer 'illegal' it seems eminently wise to check with the community, on whom the success of the law will ultimately depend, before proceeding to make large numbers of our community 'criminal'.

3. Juries play an important part in legitimating the process of law and they serve a valuable avenue for ordinary non-expert participation in the justice system. Ideally, they reflect community indignation and parallel the 'reasonable' man. At present the use of juries is restricted in two significant ways; firstly juries have no part to play in the activities of the lower courts and secondly they have no direct say in the allocation of penalty. In fact opting to be tried before a jury in some criminal charges increases the stake for the defendant by providing the judge with the capacity to allocate a greater penalty than if the defendant elected to be dealt with summarily. As has been shown, the allocation of penalty is persistently a source of much public disaffection with the judiciary. In response to this it is appropriate to consider requiring

juries to also assume some responsibility for sentence. Thus, in addition to considering the question of guilt, juries should also consider the question of punishment. I am suggesting therefore, that juries have a say in sentence, it may be wise to restrict this 'say' to a recommendation or perhaps even a majority recommendation about the preferred penalty, in any event some means for ensuring the jury addresses the court (hence the wider community they represent) and the offender in terms of the amount or type of penalty is in urgent need of exploration. Further, I see no compelling reason, other than perhaps economic, why for the exclusion of juries from the determination of minor or petty offences. There is much to be said for involving jury panels in the lower courts, (here recommendations about disposal would be useful). It can hardly be argued that to be tried by your peers is a privilege to be restricted by either the seriousness of effect or cost. In this context it may be wise to adopt some different rules and here it seems to me there is no great merit in being fixated with the number twelve with all its biblical overtones. In some jurisdictions elsewhere, six jurors have been found adequate and in some classes of offences, majority rather than total decisions acceptable. Of course there will be many objections to exploring and experimenting with expanding and adding to tasks of jury service. Already it is argued that the burden of jury service is unpopular and the addition of the responsibility of participating in sentence will make the task more arduous. It is likely that a consequence of such changes will indeed be an increase in efforts of some citizens to evade the responsibility but if we are to actively encourage genuine lay participation then we accept this burden. We can reduce the overall burden by reducing the rigid requirement that in every instance twelve citizens must be present. A more important objection is that jury participation in sentencing will enhance the



the unpredictability of sentences already sufficiently inconsistent to cause concern. The quest for a rational sentencing system is a long-standing and complex aim of a just society, demanding considerable attention from the judiciary. The development of sentencing guidelines for judges (many such principles or guidelines are also within the grasp of the lay amateur) are in the process of evolution and debate. It seems to me there is no great distress in extending this process vigorously to include ultimately a distillation of these guidelines for the practical guide of a jury. If judges can guide juries through the complexities determining guilt they can also guide juries through the equally difficult task of sentencing. To summarise; the main thrust of my argument is to urge some formal measure of jury participation in the allocation of penalty.

4. A less discrete and more wide ranging reform is the active implementation and development of community based strategies of civic control and dispute settlement. Two promising examples are already evident; the introduction of community legal centres (of which the Redfern Centre in N.S.W. is an illustrative model), this suburban based legal advice and conciliation provision goes much toward the resolution of localized fractious disputation that may ultimately lead to much more serious conflicts involving in the end the intervention of police and formalized adjudication; and the organisation of local communities and streets into a neighbourhood watch system to provide for a more systematic method of crime prevention, in a cautious experiment in Bunbury, a Western Australian country city. Both examples serve to demonstrate that effective provision and organisation at the grass roots level can underpin and relieve hard pressed and expensive centralized justice services. If such developments are to have much chance of success

then their implementation must be more widespread. For instance, if community watch programmes simply divert criminal activity away from these areas into others less organised or able to do likewise, then the burden of crime will simply be displaced. In addition such programmes do need financial support and to effect this, resources need to be diverted away from centralized bureaucracy back to local authorities and communities. The devolution of some authority for local law enforcement and crime prevention to local government in a formal way would go much toward achieving appropriate policing. Of course objections to this kind of suggestion principally rest on issues of economy of scale and the fear of unequal provision as exemplified in the experience of localized policing in North America. The trick, of course, is to achieve a useful balance between central provision and local control and responsibility. There is already a substantial trend toward the appointment of community lay advisory and review bodies, government has much to gain by co-opting a wide range of ordinary public opinion directly into the policy and decision making apparatus. Cautious moves by the legal profession to include lay members on disciplinary and complaint boards should be actively encouraged and it is appropriate to consider such a practice in a whole range of semi-judicial tribunal settings. We have already noted that community opinion is anxious to be assured that the review of complaints of both police and prisons is undertaken by strengthened independent agencies. Such review mechanisms are ideally suited to the direct involvement of lay watchdogs. Ombudsmen, for example, can be assisted, advised and strengthened by community advisory councils, committees or Boards. All of what has been said so far is rather general and is indicative of a direction of change, rather than a prescription for change, however there are some specific instances where the involvement of the public has merit. In prison

management, a community review arrangement could facilitate the supervision of leave of absence from prisons and local prisons could be guided in the variety of community work prisoners may be engaged in. Parole Boards are also another example of providing a mechanism for the expression of community interest, their size and number could be expanded to devolve in to smaller units with wider, increased access to prisoners.

In conclusion the salient feature of all these suggestions which I have called 'reforms' is to argue for the greater use of the public in the administration of justice both formally and informally. These suggestions, I believe are intrinsically conservative recommendations, for the public is seldom a force for radical change. If our policy and decision making apparatus is intricately involved in a dialogue both formally and informally with the community, then at least it can be said that some greater measure of consensus will emerge and be maintained. To ensure that those citizens that we appoint to the myriad of possible permutations of community participation are representative I am inclined to favour a random allocation of responsibility (with some qualification) to citizens in a system rather akin to jury selection. Perhaps, after all, we may see as Keith Bottomley (1979) has suggested rather optimistically, that in the new societies created out of the cauldron of contemporary change *"a return to restitutive sanctions and conciliatory law, reflecting little common agreement on the moral values implicit in particular laws but an increased awareness of the need for the ordered regulation of social life as it exists. The interests of the individual victim will receive greater protection, as representing the community, and restitutive punishment be meted out both as a sign of social disapproval that a law has been broken and as a means of requalifying the offending member for re-entry to society."* <sup>15</sup>

1. E. Durkheim, quoted in Sutherland, J., Cressey, D. (1955) Criminology
2. This point is cogently argued by Thomas Mathieson (1976), The Politics of Abolition
3. E. Durkheim, quoted in, Aubert, V. (ed) 1969, Sociology of Law, p 21
4. Hutley, Justice, quoted in, Sexton, M., Maher, L., (1982) The Legal Mystique, p 7
5. For a heartfelt manifesto of the problems of "justice in an unjust society" see the, American Friends Service Committee (1971) The Struggle for Justice
6. The analysis of prison receivals for the 1981/82 reporting year showed that 45% of those prisoners received had been to prison at least once before, - in fact one individual was returning for his 66th stay in prison!

## FREQUENCY OF IMPRISONMENT \*

Distinct persons received during 1981/82.

Count is convicted terms of imprisonment only.

Number of times in prison	Number of Prisoners	
	FIRST <sup>1</sup>	RECIDIVIST <sup>2</sup>
1st time in prison	1273	135
2nd time in prison	467	99
3rd time in prison	237	77
4th time in prison	173	70
5th time in prison	120	39
6th - 9th time in prison	149	104
10 and more times in prison	86	89
Total :	2505	613
	3118	

\*Source unpublished research W.A. Prisons Department, 1982.

NOTE 1: "First" imprisonment should read, 'no previous prison history prior to 1975.' Therefore figures shown for these persons are complete as far as adult imprisonment is concerned.

NOTE 2: "Recidivist", these persons have at least one term of imprisonment prior to 1975. So the recidivist rate is even higher (but not actually quantifiable) than shown above.

7. See in particular Skogan, W. (1977), Sparks et al (1977), this phenomenon has been particularly documented and noted with the victims of rape and assault - did they ask for it?
8. Sykes, G. (1978), Criminology, p 369
9. Banton, M. (1975) "Police", Encyclopedia Britannica, Vol 14, p 662
10. Sykes, G. (1978), op cit, pp 373-376
11. See in particular, Wilson, J.Q. (1971), Varieties of Police Behaviour. (Atheneum, New York)
12. Niedenhoffer, A., Blomberg, A. (1970) "Police in Social and Historical Perspective", in The Ambivalent Force: Perspectives on the Police, Niedenhoffer, A., Blomberg, A. (eds) (Waltham, Mass., Cinn.), also Sykes, G. (1978), op cit pp 370-371
13. See Cox, B., Shirley, J., Short, M. (1977) The Fall of Scotland Yard.
14. For a scathing analysis of the reform perspective and the positive school of criminology, the reader should consult, Taylor, I., Walton, P., Young, J. (1975) Critical Criminology
15. Bottomley, A.K. (1979) Criminology in Focus p 157

A P P E N D I X

	Page No.
APPENDIX A Summary of First Survey (co-author David Indermaur)	130
APPENDIX B Some Comments by Respondents	149
APPENDIX C Supplementary Results	156
APPENDIX D The Questionnaire	160
APPENDIX E Information Provided to Respondents	168

## ABSTRACT

A sample 278 Western Australians completed questions asking them to suggest penalties for twenty seven "crime vignettes" based on a cross cultural study by Scott and Althakeb (1977). A moral indignation score (average number of days in gaol) was then calculated and compared to other factors such as information about Criminal Justice, general punitive or non punitive attitude and demographic factors such as location, sex, age, marital status, education, political status, etc. Overall results showed considerable variance in response even with crimes defined as violent or very serious. The sample produced scores (averaged for all crimes) higher than for other comparable data. Non punitive and punitive attitude groups were highly correlated with moral indignation. Information while statistically significant was not a useful predictor of moral indignation score. Assumed penalties also were not a useful predictor of attitude or moral indignation. On average, assumed penalties were approximately half the suggested penalty, and was independent of suggested sentences. The survey concludes noting the high degree of variance observed, except in those crimes defined victimless (e.g. suicide, prostitution, homosexuality, abortion) where suggested penalty was predominantly no penalty and emphasising the role the media played in the development and formation of attitudes to crime.

The study of criminology depends directly on the labelling and definition of certain behaviour as crime. This identification process is often assumed to reflect community attitudes to these behaviours and is the goal of moral indignation studies, Scott and Althakeb (1977): Wilson and Brown (1973): and crime seriousness rating studies, Sheley (1980): Sebba (1980): Walker (1978). Sheley (p123) suggests that this field has become "a fairly important concern in the field of criminology" and that "as research into the deterrence of crime Erickson (et al (1977): Silberman (1976): and moral commitment to societal norms (Hirschi (1969) increases, the use of crime seriousness ratings will also increase." Also as Sebba writes "since the publication of Sellin and Wolfgang's "The Measurement of Delinquency" (1964) much scholarship has been devoted to the topic of seriousness scales." Some of the studies have emphasized the validity and reliability of the scales while others have raised doubts about their methodology and usefulness, Walker (1971).

## Hypothesis:

This study seeks to replicate the crime seriousness measure devised by Scott and Althakeb, and crime seriousness or moral indignation is operationalized as suggested sentences. The present study also measures the perception of crime seriousness (i.e. the assumed sentences for crimes) and the level of information about imprisonment. The following hypotheses were explored:

1. That more knowledge or information about imprisonment would relate to a lower moral indignation score, and information is operationalized as correct answers.
2. (i) That more generalized attitudes to the Criminal Justice System would relate to moral indignation, in that attitudes defined as punitive (D'Anjou (1978)) would relate to a higher moral indignation score, and  
(ii) would be less informed.
3. That demographic factors such as age, sex, marital status, education, income, source of information, political preference, religious preference and experience with the law as a lawbreaker would relate to moral indignation and information.

It was assumed that in general terms the community would be ill informed about the Criminal Justice System, thus our information measure sought also to determine the extent of information known about imprisonment. It was speculated that the difference between assumed and suggested sentences would measure the degree of agreement or consensus.

## Literature:

Crime seriousness studies are important in examining the relationships of current laws and sentences to community attitudes. Community attitudes are frequently an active component of government or public policy which directly affects persons convicted of those behaviours defined as criminal, and moral indignation measures "*may be relevant not only in the development of criminal statistics, for which they were designed initially, but also for the decision making processes*" (Sebba (1980) p124). Further, moral indignation may be considered: as an important attitude variable in its own right (Sheley (1980)), which may help in the understanding of the effect of legislation (Nesdale (1980)) and media processes (Winnick (1978): McPherson (1978): Fishman (1978): Van Dijk (1978)).

A number of studies attempt to investigate the relationship between a range of crime attitude measures and other variables. Jayewardene, et al, (1977) looks at the relationship between knowledge of crime and punishment and attitude towards it and concludes that they are independent. Nesdale examines the effect of legislation on attitudes towards

drug use. Gibbs and Erickson (1978) analysed the relationships between perceived and objective certainty of arrest, the crime rate and moral indignation and found that only when the variable (moral indignation) social condemnation was controlled was there no significant relationship between certainty of arrest either objectively or suggested and the crime rate.

D'Anjou (1978) defined punitiveness as a specific preference for legal sanctions involving the *maximum suffering of the offender*; the present study operationalized punitiveness as the preference for the *use of imprisonment*. Punitiveness is an outcome of fear in a model proposed by Wilson and Brown (1973) and their dichotomy between "fear" and "concern", is not easily distinguished, empirically,

As moral indignation and attitudes toward crimes are similar and suggested as important, it would seem useful to attempt to understand this measure and study its relationship with other relevant factors such as information, perceived current legal practice, victimization, crime rates, imprisonment rates and other demographic factors. This is the purpose of the current exploratory study, to examine crime seriousness in Western Australia.

Measures of the attitude towards crime differ in orientation but basically attempt to tap respondents differential response, in seriousness, to a range of crimes. These studies are generally described as crime-seriousness rating scales (Sheley (1980): Walker (1978): Sebba (1980) or moral indignation studies (Wilson and Brown (1973): Scott and Althakeb (1977)). Significant cross cultural differences and similarities are reported in attitudes towards crime (Scott and Althakeb (1977): Newman (1976) as are demographic factors within cultural groups, such as age, sex, marital status, educational level and income level (Nesdale (1980): Braithwaite and Biles (1980): Wilson and Brown (1973)). To this extent crime seriousness studies reflect more or less decision-making processes (from reference points learned) calibrated against a (series) range of permissible and legal control measures. Sheley (1980) p133, however, concludes that *"if crime seriousness attitudes are similar to other attitudes the present findings suggest that attitudes are more concrete and less malleable (at least by questionnaire methods) than many social scientists believe... it can be legitimately argued that attitudes about crime seriousness differ from attitudes on other issues. They do not represent likes or dislikes.. so much as they reflect a set of learned rights and wrongs for which there is little room for debate."*

There have been few studies examining the relationship of this variable crime seriousness to knowledge of crime and punishment or more general attitude. Jayewardene, et al, (1977) examined the relationship between attitude and knowledge and found little affinity, and his sample



consisted of high school students undertaking a course designed to increase their knowledge of the law and criminal processes. Fagan (1978) examined the relationship between knowledge about the Criminal Justice and pro-Criminal Justice System sentiment and found no significant relationship. A slight relationship between higher education and income and more knowledge was noted, as was the tendency for this relationship to reduce the rate of extremely positive responses for support of the Criminal Justice System. In addition, Fagan found in his sample that the public was more informed about the correctional system than about Courts and the police. The relationship of moral indignation to knowledge and general attitude may be important in the area of public education and community awareness or consciousness-raising (Van Dijk (1978)) concerning issues of crime and punishment (D'Anjour (1978)) crime reporting by the media (Fishman (1978)) and at the neighbourhood level (McPherson (1978)).

Proponents of reform and abolition of the Criminal Justice System argue that increased knowledge and understanding will lead to less punitive and more eclectic community responses to the complex social and personal conflicts represented by criminal behaviour. Doubts raised about the efficacy of modern law enforcement, sentencing and imprisonment in particular (Tomasic and Dobinson (1979): Mathieson (1976)) has led to a search for alternatives to the orthodox deterrent-punishment model of social control. Public opinion is ill-defined in this context and when reported has been described as punitive and supportive of the deterrence-punishment approach. In addition Singh and Jaywardene (1978) suggest that respondents to attitude questionnaires display philosophical inconsistencies in response to questions that reflect reformatory or retributory orientations.

There is no evidence to suggest that the capacity of the Criminal Justice System to change the behaviour of the criminal, despite particular "rehabilitation" programmes, is significant in reducing crime (Lipton, et al, (1975)).

Similarly there is little evidence to suggest that public attitude can be influenced so that the most punitive and counter-productive aspects of the deterrent-punishment approach can be changed (Bureau of Crime Statistics N.S.W. Report No.17, 1974). It is plausible to argue that the Criminal Justice System ill-functions through the repetition of set responses, which do not allow for learning in the criminal, the Criminal Justice bureaucracy or the community, so that we may assume it is self-enforcing. In a community sense, the sending of a person labelled or identified criminal to prison is satisfying, regardless of the other consequences.

It is generally perceived that the crime rate rises unabated and prison systems fail, sometimes spectacularly as in Attica in the U.S.A., Portland in the U.K., and Bathurst in N.S.W., while recidivism remains high and imprisonment rates prove difficult to reduce.

This had led to efforts to examine crime in the context of the wider society rather than the clientele of the Criminal Justice System and "crime control" is seen as a system of power, authority, control and exploitation (Ditton (1979): Mathieson (1976): Pearce (1976)). As well it has led to concerted efforts on internal reforms such as management sponsored changes to correctional programmes, custodial strategies, training and individual "treatment".

The roles of the mass media and politico-legal processes have been seen as important factors in the determination of what is crime and what are appropriate responses to it (Ditton (1979): Mathieson (1976): Wilson and Brown (1973)). Although there is uncertainty about the importance and precise role of media interaction in the criminalization process from both the methodological and theoretical aspect, there are also strong ideological differences as to the emphasis to be placed on these factors (Schichor (1980): Ditton (1979)).

A survey of knowledge and attitudes to crime and punishment in Western Australia is pertinent in view of the high rate of imprisonment compared to other Australian states\*, the high rate of aboriginal imprisonment\*\*, a higher rate of reported victimization than other states (Braithwaite and Biles (1980)) and it remains the only Australian state to retain the death penalty (for 43 offences). In terms of the above discussion, these factors are related to the deterrent-punishment model derived from a punitive attitude stemming from active "moral enterprise". Further, much publicity has been given to recent calls for the implementation of the death penalty, changes to the legislation affecting drug use and capital offenders, recent industrial strife within the prison service and a reported over-crowding in prisons\*\*\*.

#### Methodology:

The present study was designed specifically to survey the level of *suggested penalty* in a sample of Western Australian voters and to attempt to measure the level of information and relate these measures. Also a separate *general attitude (severity to crime)* measure was developed to allow the formation of punitive and non punitive attitude groups and to test their relationship with moral indignation and knowledge scores.

A measure of *assumed penalty* was taken to allow further analysis of the meaning of moral indignation scores, information and the non punitive, punitive groupings. The moral indignation scale used was designed by Scott and Althakeb to allow a comparison with a range of cultural samples. This measure related to the Wilson and Brown (1973) crime attitude survey in the Eastern Australian States, though the results are not directly comparable.

---

\* Australian Institute of Criminology Statistical Reports (1980)

\*\* Annual Report, Department of Corrections: (1978-79), (1977-78)

\*\*\* Annual Report, Department of Corrections: (1978-79), (1977-78)

A comprehensive questionnaire consisting of 143 items (see Appendix I) was mailed out to the sample with a cover note requesting cooperation and enclosing a postage paid reply envelope. The response rate of 27.8% completed questionnaires was achieved six weeks after post out date. A follow up sample of 90 non-respondents was undertaken in order to compare non-respondent scores with respondent scores. The sample of non-respondents did not significantly differ in the moral indignation score or other factors measured.

Although the survey sample seems in general terms comparable to the A.B.S. figures, the sample consists of more female respondents; more tertiary educated and higher income individuals; less single and more married people. The sample closely approximated the age variable except for a bias toward the 26-35 age group. In view of the mail out strategy, complexity of the questionnaire and relatively low response rate, the sample bias shown is consistent with problems associated with the mail-out strategy. Generalization from the sample therefore requires caution; perhaps the sample could be described as being slightly biased towards the more educated and presumably the informed and concerned within the community.

a) INFORMATION - (KNOWLEDGE)

The information section consisted of 15 multichoice and 10 scale questions. The sample was asked to provide the correct answer to a range of questions dealing with the knowledge of imprisonment. Answers were scored right or wrong on Q1-15, except on Q13 where an adjusted closest correct answer was provided in view of the initial nil correct response rate. Scale questions (Q16-Q25) were scored correct on a  $\pm 10\%$  tolerance. Each individual was assigned a score representing his number of "correct answers" on the basis of those tolerances.

b) MORAL INDIGNATION - (SENTENCING ATTITUDE)

Section 2 of the questionnaire consisted of a two part response, the first asking respondents to indicate the *suggested sentence* (or penalty) for 27 crimes presented in vignette style, by the question "What sentence do you think he or she should get?" and secondly asking respondents to indicate what they assumed the penalty to be (see c). The scale measured the respondents attitude to the crimes listed by asking them to suggest the appropriate penalty or sentence.

In Scott and Althakeb's study, eleven penalties were provided ranging from no penalty to execution. In our questionnaire this range was expanded by the addition of five extra penalties: should not be a crime (Wilson and Brown's (1973) category): one weekend in prison: restitution: community service order: probation.

For some analyses the 27 crime vignettes were grouped into categories as shown in Table I. An individual's suggested sentences for each category were converted to a single more indignation score by taking the median score in days for each penalty advocated and averaging over the vignettes in the category. Each individual's assumed penalty was treated

TABLE 1

OFFENCE (Vignette number in brackets)	PRESENT STUDY 1981		CROSS-CULTURAL STUDY (Scott & Althakeb) 1977 Excluding Kuwait		
	Average No of Days in Prison **	% of Sample Wanting Imprison- ment	Minimum Number Of Days	Maximum Number Of Days	
SERIOUS/VIOLENT CRIMES 1	Murder (9)	4064	94	1616 Sweden	4106 USA
	Rape (21)	3311	96	798 Denmark Holland	2654 USA
	Robbery (1)	2321	96	842 Sweden	1800 UK
	Aggravated Assault (13)	2859	95	708 Finland	2019 UK
	Drunken Driver - Kills(12)	3597	94		
PROPERTY CRIMES 2	Burglary (Break and Enter) (2)	495	79	270 Denmark Norway	902 USA
	Larceny (Steals >\$100) (18)	353	67	133 Sweden	565 USA
	Larceny (Steals <\$50) (5)	204	47		
WHITE COLLAR CRIMES 3	Auto Repair Fraud (14)	317	42	133 Sweden	285 UK
	Bribery (7)	1587	79	675 Sweden	1475 UK
	Oil Price Fixing (22)	1288	69	1010 Sweden	1445 Denmark
	Negligent Drug Co (4)	3131	88	1263 Norway	2776 UK
	Illegal Land Deal (10)	677	43	424 Norway	791 UK
	False Advt - Cost (16)	155	23	169 Holland	376 Denmark
	False Advt - Quality (20)	230	34	165 Norway	284 Finland
	Tax Evasion (3)	146	25	168 Norway	348 Denmark
DRUG SELL 4	Marijuana Sale (8)	2123	77	1206 Holland	1600 UK
	Heroin Sale (17)	5007	98	1384 Holland	3189 USA
DRUG USE 5	Marijuana Use (11)	316	34	116 Denmark	282 Norway
	Heroin Use (23)	769	51	175 Sweden	570 USA
VICTIMLESS CRIMES 6	Suicide (25)	204	6	-	-
	Prostitution (24)	71	10	51 Sweden Denmark	278 USA
	Homosexuality (15)	100	6	5 Norway	203 USA
	Illegal Abortion (19)	171	9	24 Sweden	214 USA
OTHER 7	Auto Theft (6)	144	27	465 Sweden	265 Holland
	Bashes Stranger (26)	1119	92		
	Drunken Driver (27)	576	59	NO DATA AVAILABLE ON THESE ITEMS	

Total 35,335  
Average 1,308

\*\*Moral Indignation Scale (Raw Score)

Average number of days in gaol represents the average "suggested sentence" for each crime vignette

similarly. No penalty and the five extra penalties mentioned above were all treated as advocating zero days in prison. The other penalties were scored as follows: one weekend in gaol = 2 days: thirty days or less = 16 days: 5-15 years = 3650 days (10 years): life imprisonment = 7300 days (20 years): execution = 9125 days (25 years).

The placement of crime vignettes was randomised in order to reduce content effects, although Sheley (1980) p133 reports "*very little evidence is found to suggest that questionnaire form and general and immediate item context distort crime seriousness ratings more than minimally.*" Some allowance was made to vary and allow for "*mens rea*" (Sebba (1980)) although not all "crime vignettes" specified or referred to the intentions of the offender. Walker's (1978) variance of the description of the offender in terms of social class was not used as, in concert with Walker's findings, this was thought not to be useful discrimination. In view of the high rate of aboriginal imprisonment a variation on the racial description of the offender might prove more pertinent in Western Australia.

c) SENTENCING INFORMATION: (ASSUMED PENALTIES)

Using the same crime vignettes and penalty range as in the moral indignation scale, respondents were asked to indicate "what sentence do you think he or she does get now?" This question provides an indication of what the assumed or expected sentence would be for each crime and in total. This enabled a comparison between the suggested sentences (Moral Indignation) and knowledge of sentences and *assumed sentences* to be made. Assumed sentences were converted to days in gaol as per suggested sentences.

d) GENERAL ATTITUDE - (SEVERITY)

General attitude towards crime and punishment was measured on 41 statements concerning crime and punishment. They were scored on a five-point Leichhardt scale from strongly agree (5), agree (4), uncertain (3), disagree (2) to strongly disagree (1). These were drafted to accord with some common assertions about crime and justice and were balanced for both strength and attitude (punitive, non punitive and neutral). Allocation of attitude was based on our operating definition of punitiveness: as selecting imprisonment as preferred measure of control. Thus there were 16 punitive valued, 16 non punitive valued and 9 neutral statements, and they were positioned so that no two items of the same valence were placed together.

Punitive value statements were scored 1-5 strongly disagree - strongly agree and non punitive statements were scored in reverse. An individual's total score was calculated and then placed into one of three groups: a punitive group (score > 101): a non punitive group (score < 91); and a neutral group (score > 91 < 101). The punitive group consisted of 83 (40.7%) respondents and the non punitive group of 121 (59.3%) respondents.

This was a refined group consisting of those respondents left after neutral statements and scores closest to their mean score of 96 were removed.

(Prior to refinement, the original breakdown consisted of 112 (45.2%) persons in the punitive group and 136 (54.8%) in the non punitive group).

e) DEMOGRAPHIC

Demographic data was collected on fourteen items by providing an optional section on the back page of the questionnaire booklet. In addition an allowance was made for respondents to volunteer general comments or suggestions.

Demographic data was collected in order to determine representativeness and to examine six demographic variables (location, sex, marital status, education level and political preference), treated as factors in an analysis of variance in relation to the other measures. A rating of various national problems was also included (adapted from the Wilson and Brown (1973) study), in order to see the importance of crime in relation to other issues such as inflation, unemployment, etc. Crime did not rate as highly as in previous studies.

Other data collected was occupation, source of information and religious preference.

RESULTS

An important objective of this study was to examine the relationships between an individual's knowledge of the prison system and his relative punitive attitude. For the analysis of the present data set this can be operationalized as testing for the presence of correlations between the number of correct questions, the person's suggested and assumed sentence for each crime category (S1...S7, A1...A7) - see Table I, and his severity (punitive/non punitive) of attitude. These correlations might be expected to be modified, possibly strengthened or weakened, by the effects of the six demographic factors location, age, sex, marital status, educational level, political preference.

(i) Information:

The number of correct questions was found not to be significantly affected by any of the six demographic factors or by punitive/non punitive attitude, except that males scored significantly more (i.e. 9.6/25 correct) than females (8.7/25 correct). The number of correct answers was normally distributed around a mean of 9.1 with a standard deviation of 2.4 questions. It was found to be significantly ( $p < 0.01$ ) correlated with suggested sentence for each crime category, and the correlation was negative, i.e. more correct questions were associated with lower suggested sentences. However although these correlations were statistically significant they accounted for a very small percentage of the variation observed; the most accounted for was 11% for tertiary educated people, when correlating

suggested sentence for serious crime with the number of correct questions. Thus the number of correct questions has very little predictive power for suggested sentence.

The least known information items were to do with staff ratio and escapes. People thought the ratio of prisoners to staff to be much greater than it actually is. Not one of the 278 respondents correctly estimated this answer, revealing an expectation of many fewer escapes than there actually are.

(ii) Sentencing information - suggested and assumed:

Suggested sentence was significantly positively correlated with assumed sentence for most crime categories, but again the percentage of variance accounted for was extremely small.

The effects of the demographic factors on suggested and assumed sentences were assessed by analyses of variance, sometimes after a log or square root transform, and sometimes on subsets of the data (e.g. for victimless crimes; see later). One curious point noticed immediately was that 11 individuals of unknown age in the sample caused a significant age effect in seven out of twelve analyses. These individuals always suggested or assumed considerably higher sentences than the others, who usually did not differ significantly, though young people consistently suggested and assumed higher sentences than older people.

Sentences suggested tended to be much higher than in other western countries (see Table I). The overall level of moral indignation was in fact higher than in any other country measured except Kuwait. On crimes of rape, robbery, aggravated assault and heroin sale, the level of suggested sentence exceeded all countries including Kuwait, which is usually the most severe on each crime. On two crimes, tax evasion and false advertising regarding costs, the sample overall suggested sentence was lower than all other countries measured.

Suggested sentences for Category 1 (Serious Crimes) also differed according to education, politics and severity; the mean suggested sentences in days (with the number of individuals contributing to that mean in brackets) is outlined in Table IIa below.

TABLE IIa

SUGGESTED SENTENCE: SERIOUS CRIME (1)

<u>Educational level</u>		<u>Political preference</u>		<u>Severity</u>	
	av no of days		av no of days		av no of days
Primary (11)	3300	Liberal (107)	2500	Non punitive (119)	2400
Secondary (140)	2900	Labour (76)	3200	Punitive (81)	3100
Technical (32)	2600	Other (30)	2500	Neutral (62)	3000
Tertiary (67)	2300	Unknown (50)	2800		
Unknown (13)	3500				

Note the downward trend evident for education. The standard error of one of these observations is 4500 days, so the standard error of the primary education mean for example is  $4500/\sqrt{11} = 1400$  days. Except for the category "unknown ages", assumed sentences did not differ for demographic factors or punitive/non punitive. The average assumed sentence was 1400 days, and the standard error of one assumed sentence was 900 days.

Sentences for victimless crimes was an instance for which the data was analysed in two subsets. 233 people suggested less than 30 days for this group, with the mean number of days suggested actually being less than two days; the remainder, 24 of them, suggested an average of 1100 days. There were no significant effects of the other factors, and in particular non punitive people's average score was not different from the punitive group. For this category, 189 assumed less than 10 days sentence; the other 70 averaged about 70 days.

Drug users (Category 5) were also analysed in this way: 133 people suggested less than 30 days, the average actually being less than 2 days; the remaining 129 suggested a median sentence of 500 days.

There was a significant effect of severity in this category. 93% of non punitive, but only 82% of punitive, suggested less than 30 days. Assumed sentence averaged 400 days.

By contrast Drug Sellers were assumed to attract sentences averaging 1500 days, while suggested sentence was much higher (3540 days); an individual's standard error was 2000 days. There were marital, political and severity effects ( $p < 0.01$ ) in suggested sentences for this category.

TABLE IIB

<u>SUGGESTED DAYS DRUG SUPPLIERS (6)</u>					
<u>Political</u>	<u>days</u>	<u>Marital Status</u>	<u>days</u>	<u>Severity Group</u>	<u>days</u>
Liberal (107)	3600	Single (28)	2400	Non punitive (119)	3000
Labour (76)	3600	S-D-W (25)	3500	Punitive (82)	4400
Other (30)	3300	Married (143)	3800	Neutral (62)	3700
Unknown (50)	4000	Unknown (77)	4200		

The discrepancy between assumed and suggested sentences reveals a tendency to want harsher penalties than already perceived. This was greatest for the crime involving the drug company executive selling a drug with known side effects. However for six crimes an overall reduction of penalty was indicated. These are, in order of magnitude calculated, prostitution; homosexuality; abortion; using heroin; using marijuhana; tax evasion.



## (iii) Attitudes:

The punitive/non punitive distinction (based on the scores on the 32 valued items) produced a greater number of respondents in the non punitive category as might be expected in view of the general acceptability of these statements. The most popular attitude statements were "crimes of violence should generally receive harsher penalties than non-violent crimes" and "size and scope of compensation schemes for victims should be increased". Fourth on the list was "people do not know enough about prisons". The most unpopular statements were "prisoners should have the right to form a union"; "our treatment of offenders should be less harsh"; "the community is sufficiently informed about prisons"; "I am satisfied with the Criminal Justice System"; and "the police should have more powers".

Cross-tabulation and analysis of variance was conducted for the attitude groups (punitive/non punitive) by each attitude statement. The results of the analysis of means showed that our predicted or assumed attitude groups was appropriate except for seven of our statements where the "a priori" attitude group was not confirmed by the analysis of variance of means. The percentage of the sample suggesting imprisonment for some of the crime vignettes is shown in Table III, broken down by severity attitude. There was a significant effect of severity ( $\chi^2, p < 0.05$ ) for each of these vignettes.

TABLE III

	No 11 - Use Marijuana	No 18 - Steal > 100	No 15 - Homosexual	No 19 - Abortion	No 23 - Use Heroin
Non punitive	24	69	3	7	42
Punitive	45	60	11	13	53
Total suggested Imprisonment	69 (26%)	129 (48%)	14 (5%)	20 (7%)	95 (35%)
Total in sample	269	269	269	269	269
Numbers (and percentages in brackets) of people suggesting one or more days imprisonment for selected crime vignettes.					

## (iv) Demographic Factors

The results to the question asking respondents to indicate their main source of information shows clearly the media as almost the only source of information most people (96%) had about the Criminal Justice System. Political preference and religious preference showed no significant relationship with other variables. It should be noted here that more respondents (109 or 50%) were identified with the liberal party.

The demographic qualities of the severity groups, punitive and non punitive, differed significantly by chi-square analysis; on sex

(chi-square  $p < .02$ ) with females (35/108) tending to be less punitive than males (42/84); marital status (chi-square  $p < .01$ ) with single and separated respondents tending to be non punitive. Income was significant with poorer (chi-square  $p = .05$ ) people tending to be less punitive, and education (chi-square  $p = .05$ ), with the higher educated people tending to be less punitive, approached significance at the 5% level.

#### DISCUSSION:

A significant relationship occurred between the subgroups punitive and non punitive and the suggested sentences, indicating the respondents who had a generally punitive attitude as defined by our general attitude statements, reflected this in their higher overall score for number of days in gaol on the 27 crime vignettes. The reverse also occurs with the non punitive group showing a lower overall suggested sentence score. Support for our hypothesis is therefore evident in that generalised attitudes to the Criminal Justice System would relate to moral indignation, and that the section of the sample defined as punitive would suggest higher sentences.

While the overall trend supports this comparison, individual crimes vary somewhat. With victimless crimes and drug use the overall tendency was also for punitive people to suggest lower penalties.

Both the punitive and non punitive groups scored around the same overall in the assumed sentences (or knowledge of sentences). The difference in suggested sentences between the non punitive and punitive attitude group is thus not a result of differences in what they assume to be the penalties for the crimes as such, although a slight tendency for those who suggest lower sentences to assume higher sentences is noted. Perhaps it is because those who favour the non punitive approach may see the Criminal Justice System as harsher than those who hold more punitive values.

A close relationship was not found to exist between (lower) suggested sentences and the number of correct answers, although a significant tendency in this direction was noted. There also did not exist a relationship between attitude expressed by the punitive/non punitive groups and knowledge based on the number of correct answers, yet again there was a tendency for the non punitive group to be correct more often. The relationship between correct answers (knowledge) and assumed sentences was also not close, and therefore our first hypothesis that more accurate information would relate to moral indignation is not supported strongly by the results; while there is a tendency for more correct answers to relate to lower suggested sentences the degree of variance does not allow confident prediction.

Both Fagan's (1978) and Jayewardene, et al's, (1977) results are therefore confirmed, yet like Fagan a tendency for knowledge to relate to attitude was observed. The relationship between knowledge and attitude also cannot be expressed through the strong relationship between suggested sentence (moral indignation) and general attitude to the Criminal Justice System. This survey's results do suggest that further examination of the relationship between knowledge and general attitude is warranted in crime seriousness studies. The difficulties encountered in preparing and interpreting an adequate knowledge questionnaire, the general low accuracy rates and general low response rate make it very difficult to explore a presumed relationship between knowledge and moral indignation using survey methodology. In view of the importance of this variable knowledge to fear and its possible relationship to crime seriousness, a wider and more sensitive knowledge measure will be required than was provided in the present study. The lack of a stable and agreed set of values very much affects the quality of information available. As it is, "reliable and objective" data is limited and not generally available or open to misinterpretation.

Significant relationships between demographic factors and other variables occurred, with higher education and sex particularly relevant to correct information and moral indignation. They support our hypothesis, that these factors would be related to moral indignation and information, as would be expected given the results of similar surveys elsewhere.

The strong reliance on the media (e.g. television, daily press, radio) as the principle sources of information on crime and punishment for our respondents further implicates the role of the media in the development and verification of attitudes to crime. In a community where the ownership of media is concentrated in a few hands and diversity of sources is thus limited, additional responsibilities for the dissemination of more accurate and contextual information about crime and punishment falls elsewhere. While distortion of news is a recognised consequence of selection, criteria for selection is seldom able to be appraised.

Overall general attitude when polarized into punitive and non punitive groups relates strongly to moral indignation and in turn moral indignation is independent of assumed sentences. This is useful as the values expressed assist in distinguishing the disagreement within our community. Identifying a profile of attitudes that relates to lower imprisonment or higher imprisonment is the necessary precursor of community education programmes aimed at sensitizing public attitude to the problems involved in confronting crime and punishment in the community and ultimately reducing the rate of imprisonment. The general attitude statements and the division of the respondents into punitive and non punitive groups was therefore helpful and could be refined considerably in further studies of this type.

It is preferable that additional crime seriousness studies incorporate a measure of the fear/concern dichotomy more specific than used by the current study and that such investigation also occur at the neighbourhood level, as it is probable that state-wide surveys do not apply to the local level (Lewis and Maxfield (1980): McPherson (1978)).

One of the most important limitations, apart from the paucity of the appropriate objective data, of generalizing from the present moral indignation study is the restricted measure moral indignation provides, and this is particularly so as the study was designed for cross-cultural purposes applied to a fairly homogenous setting. Significant "crimes" were omitted from the questionnaire (e.g. pollution, safety regulation violations; official brutality and/or incompetence; professional malpractice; acts of terrorism, and so on).

A moral indignation scale that does not attempt to account for these wider factors confines itself to the examination of the traditional definitions of crime. The present study is thus considerably restricted in its measure of crime seriousness.

In general terms the survey provided important data on the community's attitude, moral indignation and knowledge of the Criminal Justice System. The results enabled some very generalized comparisons to be made with other countries. The uniformity of moral indignation on crime often purported to exist was not evident, particularly in terms of victimless crimes and drug offences. These crimes are exemplified by the large variances noted and low scores. The overall result indicates that the community in general was punitive, but that the punitiveness was directed toward very serious crime (particularly those of violence).

In addition what is known by the community about the Criminal Justice System is not the preserve of any one set of attitudes. Perhaps the relationship between knowledge, correct information and moral indignation might become significant with increased accuracy on the part of respondents, the community. Narrowly based "objective" type knowledge questionnaires are inadequate measures of community knowledge. The availability of factual information itself may not bear on the community's attitude to punish or not, yet so little is available that such a conclusion does not allow for the potential. If, as Sheley (1980) comments in regard to Crime Seriousness Studies *"attitudes reflect a set of learned rights and wrongs"*, then the role of knowledge and accuracy of information involved in a person's moral indignation score becomes important. If, as McPherson (1978) has demonstrated, educational programmes at the neighbourhood level can reduce fear by providing people with more accurate information, then the possibility exists also for the mitigation or reduction of extremes in moral indignation.

The point is that Crime Seriousness Studies can represent an important link in the necessary investigation of crime and the development of appropriate social control measures. The data shows that considerable differences exist between what people want and what they think is occurring. In relation to crimes where consensus is fragile, the application of criminal sanctions or the use of imprisonment or the failure to use imprisonment represents a strongly felt dissatisfaction with the Justice System as it is seen to stand.

The utility and value of Crime Seriousness Studies such as the present remains (beyond the intrinsic purposes) controversial. Sebba (1980) p135 writes *"The implications of studies of the measurement of offence seriousness have become acutely relevant in contemporary criminal policy in light of the trend away from rehabilitation toward a more retributitional justice model of sentencing, with its emphasis on proportionality between the gravity of the offence and the severity of the sentence."*

Attributing some relevance to the meaning of moral indignation and its effect on sentencing depends on the value attached to public opinion in the determination of judges and legislatures. Buchner (1979) shows that many factors are taken into account by judges determining the degree of severity in a sentence, especially the effect on the offender and the utility of the institutions to which ultimately offenders are temporarily disposed, yet little is known of the value judges attach to public opinion, although it is frequently referred to in decisions of judges.

The clear problem is that on occasion the law fails to have popular support or community consensus and therefore respect for the law is jeopardized. Acceptance of the notion that laws need frequent changing was high and non-partisan in our sample, and in cases where unpopularity of certain laws lessens respect of the law, the redefinition of some "crimes" as not criminal and defining other activities as "crimes", has the effect of reflecting concerns and fears (as they change) of society seeking justice. Popular support for some of the crimes measured in the present study might be considered low enough or high enough to justify change in law and its administration.

Sheley (1980 p133) noting the high standard deviations on the ratings of less serious crimes (e.g. homosexuality, marijuana use, loitering, prostitution, abortion, pornography, etc.) in a range of surveys, concludes that *"it is clear that they are behaviours about which there is little consensus in society and little direction from socialization, media and law."* This finding however should be modified in the light of our data. In fact the distributions of suggested sentences for victimless crime including drug users, clearly split into two groups, one suggesting lower

sentences, the other much smaller group suggesting very high sentences. The high variance noted by Sheley is entirely caused by a few individuals suggesting extremely high sentences in contrast to the main body of the sample.

Despite these exceptions with regard to the less serious offences Sheley (1980) argues that *"the socialization process, media reporting, and general knowledge of the penalties for various crimes may render surveys of crime seriousness attitudes merely tests of information known by respondents - no matter what instructions precede the survey."* The present study cannot support this proposition as the measure of assumed sentence differed as expected from the moral indignation or crime seriousness of respondents, and the specific measure for information showed that crime seriousness studies are not likely to be mere tests of information, perhaps reflective of the socialization process.

Community attitudes, if reflected by this study, are more uncertain and ill informed in general than perhaps frequently represented, and in some specific crime categories the discrepancy between assumed and suggested sentences indicates at least a perceived removal of the Justice System from the moral indignation of the community. Whether this discrepancy can be arguably seen as a measure of consensus or a measure of moral enterprise as hypothesized cannot be effectively ascertained by this study alone, although the suggestion that it can has been made, and the results of this study indicate such a conclusion. Scott and Althakeb (1977) had concluded that correctional change did not need to be tied to opinion and yet they report that even countries that have very low imprisonment rates (for example the Netherlands) are described as having moderate levels of moral indignation rather than a low or "liberal" view of crime. It cannot therefore be strongly suggested that high moral indignation relates to higher rates of imprisonment, yet the general tendency of lower incarceration rates and lower crime seriousness scores is observed.

Incarceration rates may more truly reflect the activities of control agents rather than criminality in the community or community attitudes to crime and therefore we would not expect a close relationship to victimization and moral indignation.

#### CONCLUSIONS:

Co-operation on providing information on the Criminal Justice System as a whole is only intermittently addressed to the problem of fear within the community and rarely undertaken as a goal for its own sake. Add to this the effect of distortion caused by media and official selection and categorization, information accuracy is low, and the generation of

"control waves" or "crime waves" is possible (Ditton (1979); Cohen and Young (1973)). Organizational ends usually override the need to direct concern and allay public fear or to arrest the counter productive effects of moral enterprise. Fear and concern of crime is exploited to increase budgets and staff allocations. The sometimes justifiable needs of Criminal Justice agencies need not be rationalized by resort to stimulating public fear, as such tactics of 'appeals' are rarely co-ordinated and jeopardize the detachment of these agencies to make considered decisions and set appropriate priorities over the long term.

Criminal Justice agencies are not the sole elements prone to exploit crime. *"Conservative politicians have been prepared to exploit fear of crime"* as well and *"few political leaders or academics have undertaken the difficult task of reassuring the public that crime is not necessarily the product of social change. Indeed the absence of social change rather than its presence is the more likely explanation for the high incidence of crime in our society!"* (Wilson and Brown (1973) p106). It is the filtered version, the exploitive view of crime that tends to be promoted by Criminal Justice agencies and politicians and is what is most likely to constitute the information transferred to the community by the media. This information is then to a very large extent reinforced by the selective reporting of the incidence of various crimes in concert with official versions and priorities which determines a significant proportion of the information or "news" to reach the community (Fishman (1978)) and on which the community is almost solely reliant. The desirability of manipulating public attitudes and repugnancy as a supportive and useful factor in crime prevention must be set against the enhancement of widespread fear and concern of crime that leads to an increasing reliance upon punitive sanctions. Exaggeration and amplification of the probability of victimization increases fear and concern and mitigates against the effective role of the community in the implementation and control of justice. The meaning of "public opinion" and its measurement remains relatively unexplored in the context of the Criminal Justice System.

The challenge of crime in the community therefore lies not simply in its active repression by ever increasingly larger numbers of officials and experts assigned the onerous and powerful responsibility for its control, but the community itself on who, after all, the effectiveness of Criminal Justice agencies depend. The community is, by and large, a peaceful one and need not be driven into fear in an effort to control the unpredictability of fear itself and the ecological situations that lead to traditional violent crime. The quality of life in communities is dependent on factors other than these.

## REFERENCES:

1. Braithwaite, John and Biles, David: *An Overview of Findings from the First Australian National Crime Victims Survey*: Aust & NZ Journal of Criminology (March 1980) 13
2. Buchner, D., *Scale of Sentence Severity*: Journal of Criminal Law and Criminology, Vol 70, No 2, 1979
3. Cohen, S., Young, J., (Eds): *"The Manufacture of News: Social Problems, Deviance and the Mass Media"*: London, Constable, 1973
4. D'Anjou, L.J.M.: *Demanding more severe punishment: outline of a Theory*: British Journal of Criminology, London, Vol 18, December 1978
6. Ditton, J.: *Contrology: Beyond the New Criminology*: MacMillan Press, London, 1979
7. Fagan, Ronald W.: *Sources of pro-criminal justice system sentiment: the relationship between knowledge about the support for the criminal justice system*: Ann Arbor Mich., University Microfilms International 1978, 185p. (Dissertation, Washington State University)
8. Fishman, M.: *Crime Waves as Ideology*: Social Problems, Vol 25, No 5, 1978
9. Gibbs, J.P., Erickson, M.L.: *Objective and perceptual properties of legal punishment and the deterrence doctrine*: Social Problems Vol 25, Spring 1978.
10. Jayewardene, C.H.S., Lang, S., Gainer, C.: *Changing Attitudes to the Criminal Justice System through Formal Education*: Crime and/et Justice, Vol 5, No 2, 1977
11. Lewis, D.A., and Maxfield, M.G.: *Fear in the Neighbourhood: An Investigation of the Impact of Crime*: Journal of Research in Crime and Delinquency, July, 1980
12. Lipton, D., et al.: *The effectiveness of Correctional Treatment: a Survey of Treatment Evaluation Studies*: Praeger, New York, 1975
13. Mathieson, T.: *The Politics of Abolition*: Scandinavian Studies in Criminology No 4, Martin Robertson, Oslo, 1976
14. McPherson, M.: *Realities and perceptions of crime at the neighbourhood level*: Victimology, 1978, Vol 3
15. Newman, G.: *Comparative Deviance: perception and law in six cultures*: New York, Elsevier, 1976
16. Nesdale, A.R.: *The Law and Social Attitudes: Effects of Proposed Changes in Drug Legislation on Attitudes Toward Drug Use*: Canadian Journal of Criminology, Vol 22, 1980
17. Pearce, F.: *Crimes of the Powerful: Marxism, Crime and Deviance*: Pluto Press, London, 1976
18. Schichor, David: *The New Criminology: Some Critical Issues*: The British Journal of Criminology, Vol 20, No 1, Jan 1980
19. Scott, J.E. and Althakeb, F.: *The Public's Perceptions of Crime: A Comparative Analysis of Scandinavia, Western Europe, the Middle East and the United States*: Crime and/et Justice, August 1977
20. Sebba, L.: *Is Mens Rea a Component of Perceived Offense Seriousness?* The Journal of Criminal Law and Criminology, Vol 71, No 2, 1980
21. Sheley, J.F.: *Crime Seriousness Ratings - The Impact of Survey Questionnaire Form and Item Context*: British Journal of Criminology, Vol 20, No 2, April 1980, pp 123-135
22. Singh, A., Jayewardene, C.H.S.: *Philosophical Consistency in Public Attitudes on Crime and Justice*: ANZ Journal of Criminology, 1978, Vol 11.
23. Tomasic, R., Dobinson, I.: *The Failure of Imprisonment*: George Allen & Unwin, Sydney, 1979
24. Van Dijk, J.J.M.: *Public Attitudes towards Crime in the Netherlands*: Victimology, Vol 3, 1978
25. Walker, M.A.: *Measuring the Seriousness of Crimes*: British Journal of Criminology (London) Vol 18, December 1978
26. Walker, N.: *Crimes, Courts and Figures: An introduction to Criminal Statistics*: Penguin Books, Hammondsworth, Middlesex, England, 1971
27. Wilson, P.R., and Brown, J.W.: *Crime and the Community*: University of Queensland, St Lucia, Queensland, 1973
28. Winnick, C., Ed.: *Deviance and the Mass Media*: Sage Publications, Beverley Hills, 1978
29. *Crime, Correction and the Public*: Statistical Report 17, NSW Bureau of Crime Statistics and Research, August 1974



Married, Male, 35-50

The questions asked were too ambiguous and the factual questions were hard to answer e.g. Q3 - What length of time are prison wardens trained? How would the average person know?

One thing I am sure - the system is too lenient on juvenile acts of vandalism and car thefts. The use of 'cat of nine tails' for these offenders would help for the wilful damage to other people's property.

Married Housewife, over 50

Penalties for rape not severe enough. More community services should be enforced. Hostels/ employment agencies should be set up for released prisoners. Drug pedlars/sellers should be given maximum punishment and banned to special institutions. Parents should be made more responsible for crimes of their children.

Single, Clerk, under 26

I would like to see the Capital Punishment brought into legislation for crimes such as murder and brutal rapes.

Married Housewife, 26-35

Get rid of all psychologists.

Married, Retired Lawyer

The survey tends to focus on the first offender - this is unfair since there is a high rate of recidivism.

Single, female sales assistant, under 26

A lot of questions I didn't understand properly.

Married Carpenter, under 26

I think many people who commit some crimes such as rape should have their privates cut off and 1st degree murderers should be executed.

Single, branch manager, 35-50

It is only the people that have been involved in dealings with the police and prison that could answer this paper and then as human nature would have they would be anti police or corrective institutes. Law abiding people would of course rather see harsher penalties.

Married, Plant operator, 26-35

Penalties for crimes should be harsher. Public should be made more aware of crimes and what goes on in prisons.

Single, female clerk, under 26

1. Death Penalty should be re-introduced
2. Prostitution, abortion and gambling should be legalised
3. Marijuana should be legalised

Married, Electrician, 26-35

To punish evil is not enough. The cause of evil should be dealt with i.e. hating of God and his neighbour. Mankind must be educated in the way of Life as in the Ten Commandments which is a solid basis for living in peace. Prisons and such, apart from punishing the offender, only remove the sore spot from society temporarily.

Married, Business Director, 35-50

I feel minor crimes should be charged with "community work". This could possibly rehabilitate the individual to a better life as they would not have the time to get into trouble. However, major crimes (armed robbery, murder, kidnapping, assault) should be dealt with a lot more harshly than they are at present.

Married Housewife

The law is generally too lenient - present punishments do not act as a deterrent. Too many psychologists and social workers - should be more discipline starting in schools.

Married, retired farmer

Strongly in favour of capital punishment. All death sentences should be carried out. The money thus saved could go to charity. More work release advocated but stricter control needed.

Married Computer consultant, 26-35

1. Media especially T.V. tends to glamorise prison life - should show the real life in prison
2. The law needs to be modified in line with the thinking of the majority of the population e.g. gambling, soft drugs etc.

Married, retired male

1. You do not attempt to distinguish between degrees i.e. Q 5 and 18 "with or without violence" and Q 26 "does the victim sustain a black eye, broken nose, teeth knocked out, lacerations or all of them".
2. You have only one question on aboriginals who must be the State's biggest problem. One does not have an opportunity to express an opinion on them.

Single, male student, under 26

I found this very informing. I had often wondered how I would sentence offenders if ever in a position to do so. Now I know - rather harshly.

Married, self-employed male.

I cannot see an alternative to Prisons - they remain the only deterrent society has - if this is the case we have to utilise them - if not deportation to an island or another country is the only alternative. There has to be reason to prevent crime and corruption!

Married gardener, over 50

I feel that some questions can not be directly answered as it depends on circumstances leading to the crime. Also the same applies for sentencing.

Married housewife, over 50

I feel there would be less crime if there was more work for people and that people who are on pensions, dole and very low income were given more money. Anyone who does not have proper nourishment and clothes can't possibly feel fit to face up to job hunting and interviews.

Married driver, 26-35

Some of these questions require a different answer than stated as preferences in columns.

Married housewife, over 50

More help from the community and social welfare, more employment, prison should have more tough security. Also the death sentence should be back again.

Married, retired farmer

Court judges must have the right to consider each case individually, regardless of traditional sentences. Young first offenders should be kept out of gaols. Rehabilitation should be the aim of the system, punishment being the secondary consideration. Fines are not a great deterrent to the wealthy. Perhaps restrictions on allowing convicted persons to serve on executive positions may be a deterrent to "white collar crime" to be administered by the Corporate Affairs Office. I think "white collar crime" is on the increase and this is a sad reflection on the educated section of our community.

Retired Widow

I am in favour of prisoners earning a wage whilst serving their sentence to help them on release. (A crucial time). Am also very strongly for recompense for victims of crime (particularly violent crime). Am in favour of execution for violent and premeditated murder, since "Life Imprisonment" does not mean that in proper terms.

Married Miner, 26-35

As second time around in filling out this form I have probably learnt more about prisons and crimes and the sentences are different than on the first sheet.

Married Social Trainer, under 26

After doing this questionnaire I realize that I know very little about prisons and crime. I do feel strongly however, that prisoners should have no privileges e.g. T.V., newspapers etc.

Married contractor, 35-50

Although the prison system has its drawbacks, the problem is to find an alternative which would help the offender as well as protecting society. Rehabilitation is a noble aim but is it achievable?

Married Business Proprietor, over 50

Evading tax payment is a greater crime than rape?

Single Bank Officer, under 26

I feel violent and cruel crimes usually inflicting harm and fear on a victim, even just a simple bashing outside a hotel, e.g. skinheads should be much more severely dealt with. These people only understand violence to gain their own satisfaction so they should be punished accordingly. Drug pushers should be continued to be punished harshly. Non-victim crimes e.g. gambling, prostitution, drug taking should be decriminalised. Also businessmen who avoid tax, e.g. family trusts should be treated like a thief.

Married Plant Operator, 26-35

Section 2. Questions 9 & 13 are hard to answer because there can be so many circumstances. Question 19 is one I think the women should have more say in not only politicians.

Section 1. Questions 2 Why wasn't Canning Vale Gaol included in the number of gaols?

Separated, unemployed female.

Would have preferred to elaborate on many of the questions answered. I feel every crime is individual and that this survey is generalising. If I'm not happy with some of the answers how can you get a true assessment of public feelings.

Married, Housekeeper, 26-35

I realize I don't know enough about present penalties. I strongly believe eye for an eye as a preventative measure for crime.

Divorced Secretary, 26-35

Section 3 should be more specific.

Married, food processor, female

Thanks for the information sheet - most helpful. There is still plenty I don't know - and the rest of the community needs enlightenment too.

Married, farmer, female 35-50

I feel I've not really been much help in your survey - feel rather ignorant in fact. We are the sort of folk who, when the policeman rings are generally asked for an afternoon of tennis with him!

I do feel that probation should be earned and more use made of the community as a help to re-educate offenders.

Single, unemployed female, under 26

I found many questions difficult to answer as they were far too general. There is usually a different solution for each case (or group of similar cases) and in answering these effectively I could see much crime being prevented as the motives for it need never be born in the individual or they would be greatly reduced.

Divorced, Mother, 35-50

More thought could be given to the victims of crime first - but maybe the second "Victims" are the family of the offender. As a result of their convicted rapist son's crime, personal friends of mine have suffered enormously at the hands of the public in general mainly through ignorance.

Married Housewife, over 50

Judges vary so much in their fines and sentences, I often wonder if they are fair.

Married Interior Decorator, over 50

Disruption of essential services - Union Pres. & Sec, 6-12 months, no option.  
Corruption by Govt. Servants or politicians, 5-10 years.  
Muggings and other mindless violence, 2-5 years plus 10 strokes of the lash.  
Sexual crimes against children under 12 years, execution.  
I believe that the sentence handed down in the court should be served. If a judge sets a minimum term then he is really contradicting himself. What is the point of imposing a 'life' sentence if the criminal is released in 3 or 4 years?

Single, male student

The criminal justice system should be geared to fit the society and the pressures imposed by the society, and the system should have room for alteration and change rather than keeping on the strict lane of traditional justice which I feel is insufficient to today's society.

Public servant, over 50

I am aware that the prison system is costly and non productive, e.g. the New Canning Vale prison was paid for by taxpayers. If a person wants to commit a crime against himself, e.g. suicide, prostitution, he/she should be helped - not imprisoned. Law needs to be changed to meet social/economic changes.

Married housewife, 26-35

Responses sometimes seem contradictory. But jail for unskilled illiterates is unlikely to be a deterrent, in fact it probably teaches more about crime. Jail for highly organized frauds and conspiracies is likely to be more effective but these people have access to expensive legal protection and very rarely see jails when they are the people that jails would teach a lesson to.

Married housewife, over 50

Juveniles' apparent lack of appreciation of values and responsibility may well be overcome by restitution and constructive work in the community to inspire some improved sense of values. Crimes of violence and intimidation generally cannot usually be curbed by "soft" treatment which could inspire contempt of authority and lead to worse crimes.

Married farmer, 35-50

I have found these surveys thought provoking and well planned. In Section 3 I think a question of premeditated murder or murder in pursuit of robbery etc. should have been included to test people's reaction to capital punishment. Also whether drunkenness, drugs or pre-menstrual tension should be accepted by courts in mitigation.

Married Firefighter, 26-35

I feel that all crimes involving violence should receive harsher penalties but crimes involving no other party (drug taking etc) should not be crimes at all. Also, any crime that causes death (except vehicle accident) should receive the death penalty. I feel the death penalty is the only real deterrent to these crimes and that execution should be brought back.

Housewife, 26-35

Police should concentrate more on busting the heroin pushers rather than mucking around with the lighter drug users.

Married Company Director,

Overall I believe too often high penalties are handed out for property crimes i.e. Housebreaking etc. whereas injury to life and limb i.e. RAPE, ASSAULT, DRUNKEN DRIVING are dealt with too leniently. It seems property and businesses are more important than people's lives. Also lets have less of the psychology and more of the deterrent. There was less crime when there was more fear of the consequences.

Married Salesman, 35-50

Penalties for crimes of violence should be harsher. i.e. Rape, Mugging, Murder, Armed robbery, Drug peddling (Heroin). Prisons should not be considered as home from home but as places you don't want to go to again. This questionnaire is certainly thought provoking. I would not like to be a judge.

Married Male, 35-50

The policy of our justice system (Lawyers) of "the guilty are innocent and the innocent are guilty until otherwise proven in court" needs to be carefully studied. No special "privileges" should be granted to a person being charged because he/she are "members of high society", rich, member of prominent family etc.

Housewife, over 50,

There's still one law for the rich and influential and one for the poor and if we had full employment there'd be less petty crime.

Housewife, 26-35,

Instead of people being kept in prison for life sentences they should be used to experiment new drugs and such instead of using animals.

Married Woman

I think a person who commits murder should be hanged not life sentence because life sentence is too good for them.

Pensioner, housewife (84 yrs)

Politicians who pay themselves huge salaries are continually introducing new forms of unnecessary interfering legislation that it becomes increasingly difficult for the ordinary citizen to remain law abiding thus filling our prisons with wrongdoers instead of criminals.

Single female, under 26

At all costs there should be a removal of a double standard for law breakers e.g. an aboriginal, an average worker, a high society type, politician/public servant etc. Must all get the same treatment i.e. no adjustment for society level in offences and punishment.

Housewife

I would like to see, when the courts give a sentence, and not reduce the sentence for good behaviour, murder, violent rape, pushing drugs etc.

Married, female Real estate rep, 35-50

Rape offenders should be given no remission as they commit this crime repeatedly.

Single Electrician, 26-35

Prisoners to do more community work to cut costs as in other countries. A check on police for crimes.

Married, female Business Proprietor

I wish Judges had experienced the victim's traumatic suffering.

Single, female Lab. Assistant, under 26

Some of the answers in Section 1 are very ambiguous.

Separated Operator, 26-35

Fairly informative survey and more people should be interested in what goes on in a prison and the reason why people are in prison.

Housewife, over 50

I believe each case of crime should be dealt with on its own merit of reason, facts and consequences not on the laws of yester year or a Lay Jury, incapable to follow and understand the language of law in the courtroom, or to be able to truly be unprejudiced by appearance or the ability to put on an act by the accused, or finally how good the accused lawyer is. Therefore I feel, though I did answer the questions, they are not the right ones in some cases.

Housewife, over 50

The whole aspect of punishment should be related to community service, work, or denial to the offender of leisure time.

Single, female School Teacher

Many of my answers are wild guesses as a result of my ignorance. I am unsure of the definition of probation - Does the "offender" receive help and encouragement from his or her parole office or is it a relationship of mistrust and suspicion? Good Luck with your results! This has motivated me to find out more about this subject.

Married, Quarry Manager, 26-35

Suggest that "lie detectors" be made compulsory in all court hearings.

Single Public Servant, under 26

I think these surveys are good if they can be used to improve the system.

Married Male

Homosexuality should not be a criminal offence between consenting adults in W.A. or any other state of Aust. The practice of prostitution and keeping of brothels should not be a criminal offence. Sexual offences against children should be made tougher. More lenient towards drug addiction, offence of drug pushing and trafficking made tougher. W.A. would gain by a government run casino.

Housewife/Saleswoman

I am appalled by the treatment of aboriginals by the police and also the general public here in Australia and feel very deeply the indignities and the indifference shown these people. I also feel there should be no State Police and that there should be one Australian Federal Force under the control of the Commonwealth Government. I have enjoyed filling in your questionnaires. Thank you for the opportunity.

Married, male Technician, over 50

It is not easy to give a general statement to all questions without knowing all the facts of a case.

Married, male Business Proprietor, 35-50, Liberal

Increase the violent crime sentences.  
Judges should get together more to be more equal in their decisions, e.g. same day this year 13 Doctors evaded income tax - received a fine. Same day a lady with a child was gaoled for incorrectly filling in a social service form, she was destitute with a drunk husband and needed the money to feed the child. NO EQUALITY RE SIMILAR OFFENCES.

Married, Engineer, over 50

Many of the questions do not have enough detail to expect a sensible answer. I realize that if you make questions too detailed people will not bother to partake. However, how reliable are answers if you do not? People who genuinely wish to help would I am sure appreciate better basis for consideration.

Married, male Clerk, over 50

Criminal law needs a complete overhaul. There are too many differences in penalties handed down - The crimes involving drugs, sex and violence should be number one priority in the revision of penalties. These crimes should have such a deterrent in punishment meted out, as to cause a lessening in crime.

Married, male, Hardware Salesman

It took me longer and the questions appeared harder. It required a lot of thought. Hope my duplicate answers dont upset the computer. I also hope that your efforts will ultimately benefit all of us.

Single, female Teacher

Magistrates seem often to favour the accused and not the victim. Police need more support from magistrates and the public. Fines should never be an alternative to prison. Much heavier fines needed instead of prison sentences, and in proportion.

Relaxing laws with regard to abortion and sexual offences is causing a disastrous state of affairs, though initially they (the law) are not the judges in these fields.  
There should be more help for victims of violence and drunken driving.

Housewife

Too lenient with drug offenders and rapists. Also fatalities involving drunk driving "Whats a fine compared to a person's life!"

Housewife, 26-35, Labour

More people should be punished severely for their crimes. Murderers should be executed. Rapists, sexual perverts should be desexed, Drunk drivers causing death or bodily harm should be executed if found guilty of manslaughter, be imprisoned for hurting other people. Drug Traffickers should be hanged by the neck till dead. Sexual child molesters should be publicly desexed. Child bashers - imprisoned, Solitary Confinement. Non Australians - Deported (Asians, refugees, Japanese, Indian etc!).

Single School Teacher

The power of the police is frightening in some instances - the harrassment of a person in his own home e.g. Prostitution, gambling, movies (pornography), marijuana smokers - yet people who are corrupt businessmen or car thieves, vandals, breakers and enterers, get off with probation. Seems illogical to me.

Married, female Clerical Assistant

I feel that our future lies within our education system with teachers demanding more respect.

More responsibility should be placed on the individual to make him morally stronger.

Married, male

A person and his property should not be subject to attack. People who habitually commit crimes should be where they cannot offend - in gaol.  
People who make a genuine effort to be law abiding or who offend due to circumstances should be given every assistance.

Housewife, over 50

I have not answered re "What Sentences" etc because I honestly have no idea, but I think prisons have too much luxury to be a deterrent to anyone. i.e. man killing a little girl is a tragedy for everyone, but I can't see that sending him to prison will stop him drinking.. He will have it on his conscience for the rest of his life and I think some other punishment will have to be considered.

Housewife, over 50

Law not harsh enough on offenders.

Housewife, 35-50

Am still of the opinion we do not use our deportation laws as we should. We should be far more severe on immigrants that abuse the laws of our country. I do not agree with legalising Marijuana as Mr Gorton is endorsing.

Married, male, over 50

In a case of Rape where there is no sign of violence should be no case.  
The prisons should be harder, and make a man in the society, from the scum of the delinquents.

Housewife, over 50

Four questions on the previous page which I have marked uncertain because it would depend on the type of person being imprisoned or already in prison.

Housewife, over 50 (widow)

Offenders who deface smash, homes, gardens, cars, people, should be made to do work and help and mend the same.

Widow, over 50

I do think that the public at large are becoming more fearful. It is hard to trust anyone anymore. Myself for instance have ceased to go out to theatre or functions in town because I am afraid of my car being stolen. If I returned and it had gone I feel it would be more than I could bear.

PUBLIC ATTITUDES TO PENALTIES FOR CRIME

Q. "The offender is a female who solicits money in return for providing sex"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	64.9	24.4	8.4	2.3
DECEMBER 1981	62.8	26.8	7.7	2.7

Q. "The offenders are two males who engage in sex together"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	83.5	3.3	4.8	2.4
DECEMBER 1981	81.5	8.5	6.5	3.5

Q. "The offender is a woman who had an illegal abortion"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	79.1	11.4	6.8	2.7
DECEMBER 1981	79.1	13.9	4.0	3.0

Q. "The offender is an executive who is responsible for an advertisement which makes false and extravagant claims about the quality of his company's product"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	3.8	62.3 (47.1)	29.7	6.2
DECEMBER 1981	3.0	65.6 (48.3)	23.2	8.2



Q. "The offender is the manager of a department store who advertises that prices on all items have been reduced by 50% when in fact no such price reductions have taken place"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	8.7	68.3 (49.8)	18.5	4.5
DECEMBER 1981	6.9	70.7 (51.5)	18.0	4.1

Q. "The offender is an auto-mechanic who charges you \$ 300 for major engine repairs; when in fact he only replaces the spark plugs"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	2.6	54.9	31.9	10.6
DECEMBER 1981	1.5	55.1 (35.1)	33.6	8.8

Q. "The offender is a person who uses marijuana"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	34.4	32.6	25.3	8.7
DECEMBER 1981	32.9	36.5	21.4	9.2

Q. "The offender is a person who sells marijuana"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	7.2	15.8	21.2	55.8
DECEMBER 1981	9.2	14.5	27.9	47.3

Q. "The offender is an individual who intentionally fails to report \$5,000 in earnings to the Government and thus pays no taxes on his income"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	8.2	66.7 (48.5)*	21.0	4.1
DECEMBER 1981	5.9	66.6 (49.8)	23.7	4.8

\*figures in brackets indicate percentage suggesting fine

Q. "The offender is a businessman who attempts to bribe Government officials to obtain a lucrative (\$10,000,000) Government building contract for his company"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	4.9	14.7 (9.4)	30.0	49.4
DECEMBER 1981	5.6	17.5 (11.2)	29.4	47.5

Q. "The offender is a drunk driver"

	No Penalty	Penalty other than Prison	Less than 2 years Prison	More than 2 years Prison
JANUARY 1981	0	40.5 (21.2)	44.3	15.2
DECEMBER 1981	0	45.2 (24.8)	36.0	19.8

NUMBER OF IMPRISONMENTS (MAX 27) CRIME VIGNETTES  
 Suggested sentences in imprisonments — mean 15.1515  
 Assumed sentences in imprisonments - - - mean 13.9382

FIGURE 4.

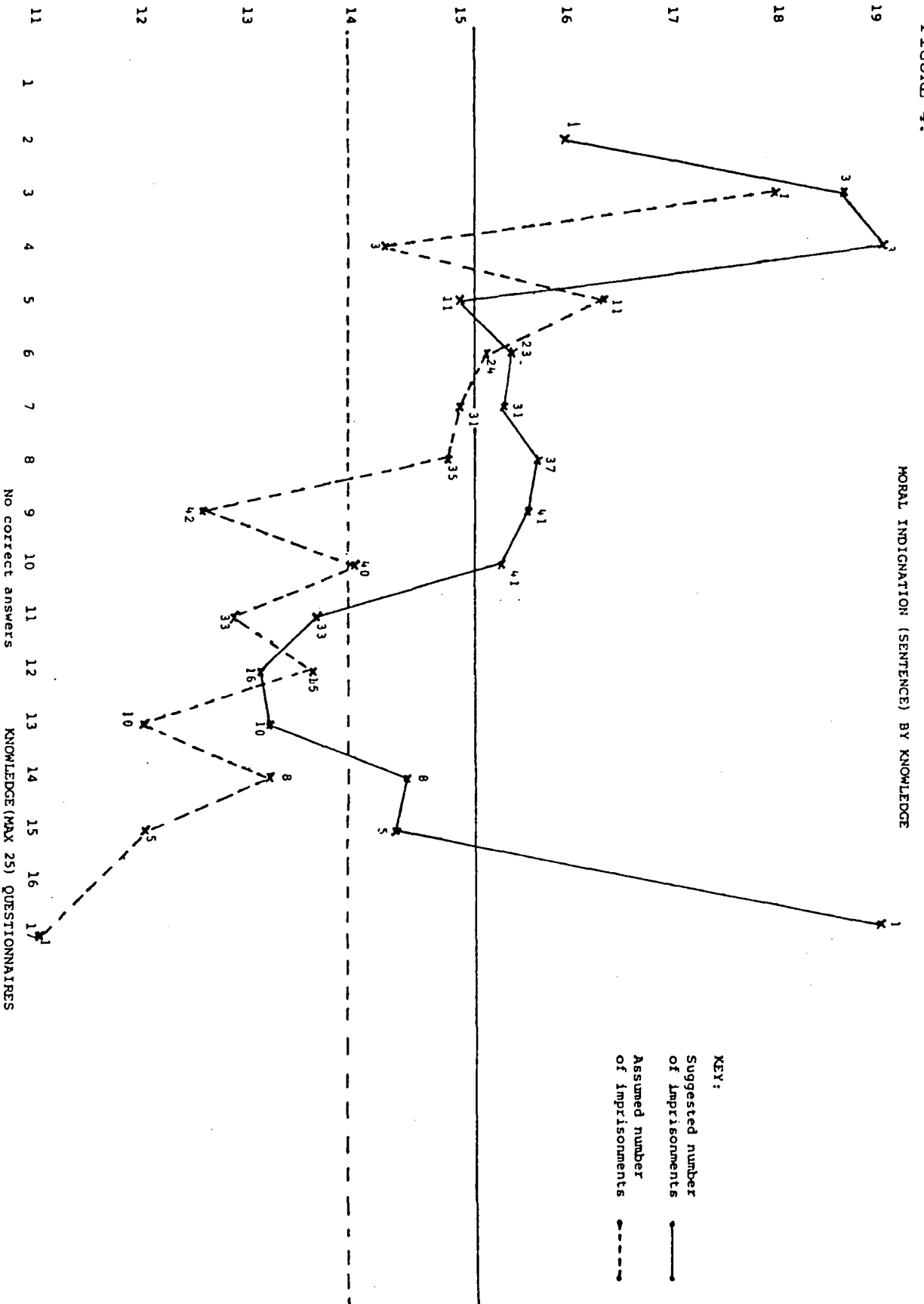


Figure 1 shows the tendency for people with more correct information to be less punitive

No of questions expected by chance. 5.5 questions right



B	A
620	

**INFORMATION AND ATTITUDE SURVEY**

This survey is divided into three sections: information, sentencing (penalties) and opinions (attitudes). It is important that all questions are answered so that results can be calculated fairly.

It is likely that you will find many questions difficult to answer, in these cases please make a guess anyway and don't worry about it – your response is just as valuable.

All questions refer to conditions in Western Australia for 1980. Questions about prisons concern the adult jails and not the juvenile institutions.

**Section 1  
INFORMATION**

Here are a number of questions about prisons and crime in Western Australia. Please put a cross or a tick in the box next to the answer you think is correct. Example :

1. To become a Superintendent (Governor) of a prison a person must be at least?

- A person qualified in the field of human behaviour
- A person with a University degree
- A senior prison warden with many years experience
- An ex-commissioned officer in the armed services
- Don't know

2. How many prisons are there in WA?

- 24
- 17
- 12
- 6
- 3
- Don't know

3. What length of time are prison warders usually trained for before commencing duty?

- 24 weeks
- 12 weeks
- 6 weeks
- 3 weeks
- 1 week
- No training at all

4. What is the average number of prisoners in all WA prisons at any one time?

- 2800
- 1900
- 1400
- 1100
- 800
- 500

5. How much does it cost to keep a prisoner in prison each day?

- \$53
- \$39
- \$26
- \$18
- \$13
- \$ 9

6. How much time are prisoners in Fremantle prison allowed for visits from relatives or friends?

- one, 40 minute visit per month
- one, 40 minute visit per week
- one, 60 minute visit every 3 months
- one, 30 minute visit per day
- one 60 minute visit per week
- no time allowed

7. What is the previous occupation most common for those people sent to prison?

- skilled tradesman  
 unskilled labourer  
 self-employed  
 semi-skilled tradesman  
 clerical workers

8. Most prisoners are in prison for offences relating to:

- violence to persons  
 property (theft etc)  
 drugs (excluding alcohol)  
 against good order (eg traffic offences, drunk and disorderly etc)

9. How old are most prisoners?

- under 25  
 26 – 34  
 35 – 44  
 45 – 54  
 over 55

10. How many offences were reported to the police in 1980?

- 87,000  
 71,000  
 63,000  
 54,000  
 46,000  
 37,000

11. Which of these statements most accurately describes the parole system?

- a system where an offender makes a contract to be good instead of going to prison  
 a system by which an offender reports regularly to the authorities instead of going to prison  
 a system which ensures prisoners are released before their sentence has finished  
 a system by which a prisoner is released on a good behaviour basis from prison.

12. What is the average length of time most prisoners serve in prison?

- less than 12 months  
 between 12 – 24 months  
 between 2 years and 4 years  
 more than 4 years

13. What is the ratio of prisoners to prison staff (Staff : Prisoners)?

- 1 : 9  
 1 : 7½  
 1 : 6  
 1 : 4½  
 1 : 3  
 1 : 1½  
 1 : 1

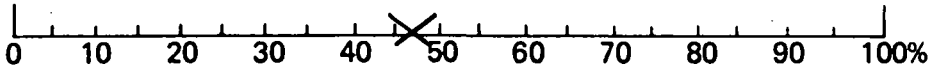
14. Per head of population the number of people imprisoned in WA compared to other states is –

- higher than other states  
 lower than other states  
 about the same as other states

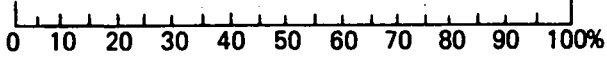
15. How many prisoners escaped from prisons in WA in 1980?

- 241  
 190  
 143  
 128  
 96  
 37

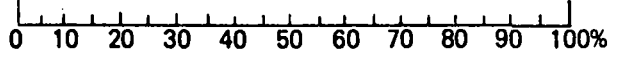
For the next questions mark your answer on the line with a cross. Example:



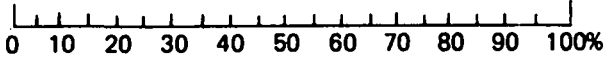
16. A prisoner's chances of returning to prison are about?



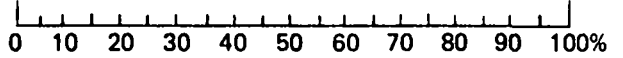
21. What percentage of prisoners offences are driving offences.



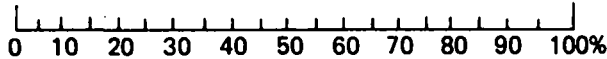
17. What percentage of prisoners are women?



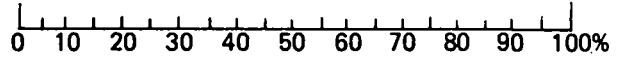
22. The percentage of prisoners who are not actively employed in prison institutions is



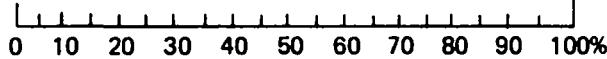
18. What percentage of prisoners are aboriginals (full blood and half caste)?



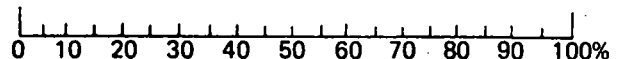
23. What percentage of crimes or offences are reported to the police?



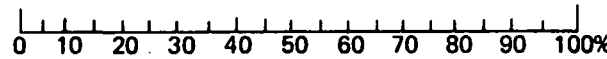
19. What percentage of prisoners offences are directly related to drugs (excluding alcohol)?



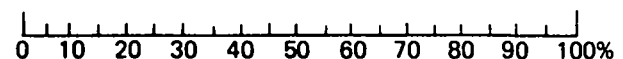
24. What is the percentage of reported crimes that are solved?



20. What percentage of prisoners offences are directly related to alcohol?



25. What percentage of persons sent to prison are unemployed at that time?



Please number the following problems facing our country to show us how important you think they are. (1 = most important, 7 = least important).

- Foreign Affairs .....
- Poverty .....
- Inflation .....
- Education .....
- Crime .....
- Race Relations .....
- Unemployment .....

Thank you. Could you please turn the page and continue with Section 2.



## Section 2

## SENTENCING – INFORMATION AND ATTITUDE

Please think about the crimes listed here (1–27). First decide what you think the offender should be given as a sentence or penalty. Then indicate what sentence you think he or she would receive under our present laws. Indicate the sentence by using a letter from the key given here (A–P).

For example, if the crime was shoplifting and you think the offender should be fined enter the letter D in the first column. You then put a letter in the second column to show what you think the penalty would be if the offender went to court today.

A = Should not be a crime at all

I = 1 month to 6 months in prison

B = No penalty

J = 6 months to 12 months in prison

C = Restitution

K = 1 year to 2 years in prison

D = A fine

L = 2 years to 5 years in prison

E = Probation

M = 5 years to 10 years in prison

F = Community Service Order (ie offender must do some prescribed work in the community)

N = 10 years or more in prison

G = 1 weekend in prison

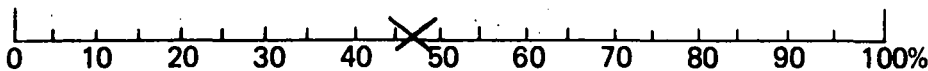
O = Life imprisonment (15 years or more)

H = Up to 30 days in prison

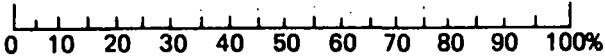
P = Execution

CRIME	What sentence do you think he or she should get?	What sentence do you think he or she does get now?
1. The offender is a man who robs a store with a gun.		
2. The offender is man who breaks into a neighbour's home to steal money.		
3. The offender is an individual who intentionally fails to report \$5,000 in earnings to the Government and thus pays no taxes on his income.		
4. The offender is an executive of a drug company who allows his company to manufacture and sell a drug knowing that it may produce harmful side effects for most individuals.		
5. The offender is a man who steals property (value less than \$50) from a stranger.		
6. The offender is a young boy who steals an automobile.		
7. The offender is a businessman who attempts to bribe government officials to obtain a lucrative (\$10,000,000) government building contract for his company.		

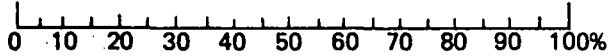
For the next questions mark your answer on the line with a cross. Example:



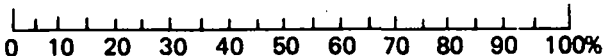
16. A prisoner's chances of returning to prison are about?



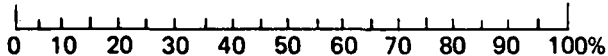
21. What percentage of prisoners offences are driving offences.



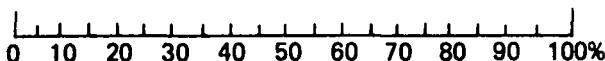
17. What percentage of prisoners are women?



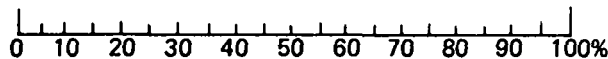
22. The percentage of prisoners who are not actively employed in prison institutions is



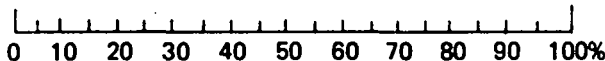
18. What percentage of prisoners are aboriginals (full blood and half caste)?



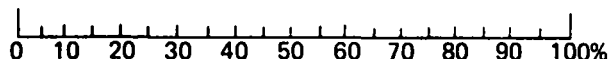
23. What percentage of crimes or offences are reported to the police?



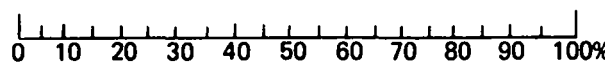
19. What percentage of prisoners offences are directly related to drugs (excluding alcohol)?



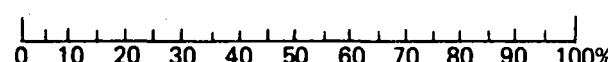
24. What is the percentage of reported crimes that are solved?



20. What percentage of prisoners offences are directly related to alcohol?



25. What percentage of persons sent to prison are unemployed at that time?



Please number the following problems facing our country to show us how important you think they are. (1 = most important, 7 = least important).

- Foreign Affairs .....
- Poverty .....
- Inflation .....
- Education .....
- Crime .....
- Race Relations .....
- Unemployment .....

Thank you. Could you please turn the page and continue with Section 2.





## Section 2

### SENTENCING – INFORMATION AND ATTITUDE

Please think about the crimes listed here (1–27). First decide what you think the offender should be given as a sentence or penalty. Then indicate what sentence you think he or she would receive under our present laws. Indicate the sentence by using a letter from the key given here (A–P).

For example, if the crime was shoplifting and you think the offender should be fined enter the letter D in the first column. You then put a letter in the second column to show what you think the penalty would be if the offender went to court today.

A = Should not be a crime at all

B = No penalty

C = Restitution

D = A fine

E = Probation

F = Community Service Order (ie offender must do some prescribed work in the community)

G = 1 weekend in prison

H = Up to 30 days in prison

I = 1 month to 6 months in prison

J = 6 months to 12 months in prison

K = 1 year to 2 years in prison

L = 2 years to 5 years in prison

M = 5 years to 10 years in prison

N = 10 years or more in prison

O = Life imprisonment (15 years or more)

P = Execution

CRIME	What sentence do you think he or she should get?	What sentence do you think he or she does get now?
1. The offender is a man who robs a store with a gun.		
2. The offender is man who breaks into a neighbour's home to steal money.		
3. The offender is an individual who intentionally fails to report \$5,000 in earnings to the Government and thus pays no taxes on his income.		
4. The offender is an executive of a drug company who allows his company to manufacture and sell a drug knowing that it may produce harmful side effects for most individuals.		
5. The offender is a man who steals property (value less than \$50) from a stranger.		
6. The offender is a young boy who steals an automobile.		
7. The offender is a businessman who attempts to bribe government officials to obtain a lucrative (\$10,000,000) government building contract for his company.		

STATEMENT	Strongly Disagree	Disagree	Uncertain	Agree	Strongly Agree
Crimes where there is no victim should be punishable by imprisonment in some cases.					
Prison sentences should be reduced and the money saved spent on helping the offender in the community.					
The community in general is sufficiently informed about the criminal justice system.					
There should be more use of imprisonment as a penalty rather than fines, work orders and good behaviour bonds.					
Police and prison officers should be more highly trained.					
Offenders should still be sent to prison even if it does not help them.					
Judges should have more first hand experience of prisons.					
Police should have more power.					
More effective methods of dealing with crime need to be developed.					
Crimes of violence should generally receive harsher penalties than non-violent crimes.					
All penalties should be increased.					
Psychologists should have more say in the sentencing and management of offenders.					
Offenders should still be sent to prison even if it will increase the chances of them committing more crimes.					
Complaints against the police and prison warders should be investigated by an independent body.					
Prison rehabilitates prisoners.					
Where a fine is imposed as a penalty the fine should be proportional to the offenders income rather than a flat rate.					
The police victimize individuals.					
In no circumstances should prisoners be able to have sexual contact with their spouse.					
Imprisonment fails to prevent crime.					
I am interested in the issue of crime, justice and punishment.					
I am more afraid of crime than interested in it.					
Police and prison warders should be directly under government control rather than a union's.					
I am satisfied with our present criminal justice system.					

**OPTIONAL SECTION**

The following information will help us understand the survey results, however, if you feel that they are personal just leave them blank.

Your age

- under 26
- 26 – 35
- 35 – 50
- over 50

Sex

- male
- female

Marital status .....

Occupation .....

Your main source of information about crime justice and prisons

- media (TV, radio, newspapers)
- independent reading or study
- personal contact (what you've heard)
- personal experience

Your Educational level

- Primary School
- Secondary School
- Tertiary
- Technical

Your Income level

- Under \$10,000 pa
- \$10,000 – \$20,000 pa
- over \$20,000 pa

Your Political preference

- Liberal
- Labour
- Other

Your Religious preference

- No religious practice
- Christian
- Other religion

Have you had any personal experience with the police as a lawbreaker?

- Yes
- No

Have you had any personal experience of

- Yes
- No

**GENERAL COMMENTS OR SUGGESTIONS:**

.....

.....

.....

.....

.....

.....

.....

APPENDIX E

## Education and Justice

## Community Research Project

PLEASE READ THIS INFORMATION BEFORE YOU ANSWER THE QUESTIONNAIRE

INFORMATION - Section 1

Question 1. *"To become a Superintendent (Governor) of a prison a person must be at least?"*

Prison Superintendents in Western Australia are promoted from the uniformed ranks as are commissioned officers in the Police Force. Victoria is the only state that has departed from this practice to any degree, engaging University graduates and is similar in some respects to the English system where University graduate Governors are frequently appointed from outside the Service.

Question 2. *"How many prisons are there in Western Australia?"*

If you exclude police lock-ups, there are 17 prisons in Western Australia as per the attached diagram.

Question 3. *"What length of time are prison wardens usually trained for before commencing duty?"*

Like police officers, prison officers have a 3 month training programme followed by a six month probationary period. Four of the 12 weeks of training are spent in at least two institutions attached to other staff. Apart from first aid, self-defence and custodial duties some attention is given to man-management and criminology. Before entering training the applicant must pass a number of selection tests and appear before a selection board.

Question 4. *"What is the average number of prisoners in all W.A. prisons at any one time?"*

The average "muster" of W.A. prisons is approximately 1,400 persons although in previous years it has been as low as around 830 persons and in more recent times the "muster", as the daily count of prisoners is called, has been as high as 1,500 persons.

Question 5. *"How much does it cost to keep a prisoner in prison each day?"*

When estimates for this average cost were last officially available (1979/1980 financial year) the cost per day, per prisoner was approximately \$39 per day. Recent figures however put the cost at around \$53 per day. As this is an average figure, costs per prisoner vary considerably from prison to prison. About two thirds of prison expenditure is incurred in the salaries and wages of staff.

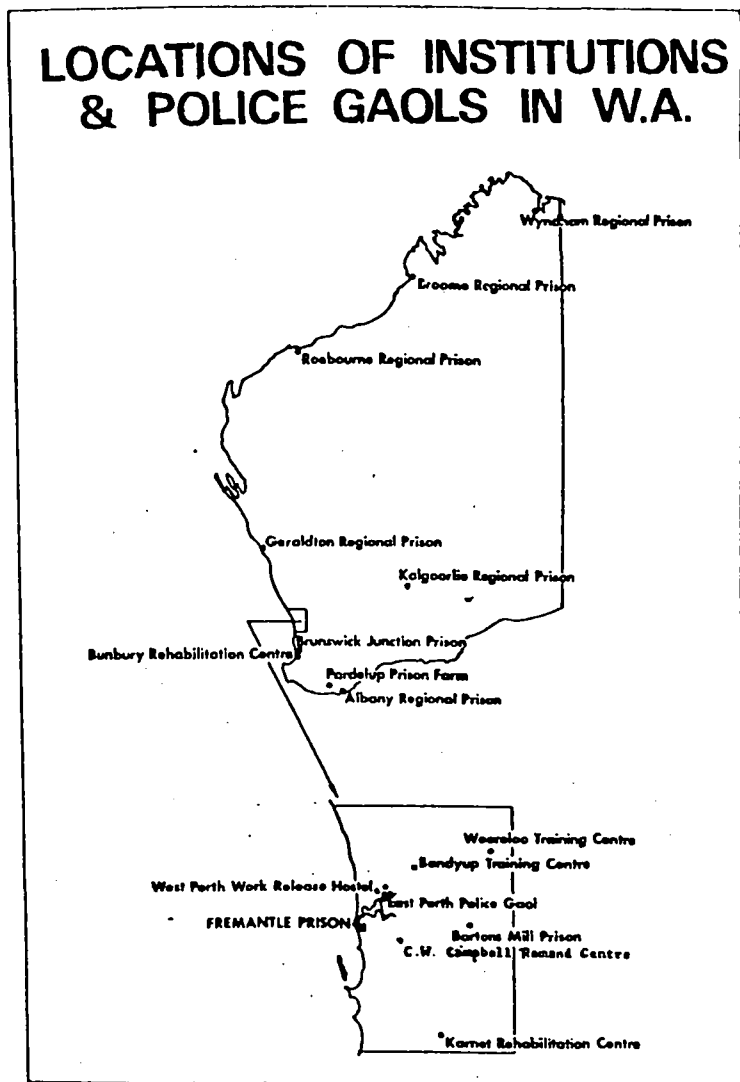
Question 6. *"How much time are prisoners in Fremantle prison allowed for visits from relatives and friends?"*

One 40 minute non-contact visit per week is permitted a prisoner and a maximum of three persons may visit the prisoner at any one time. The prisoner's lawyer may visit the prisoner as required and this is not counted as a visit. Depending on the dangerousness of the prisoner, visits by the prisoner's family can take place in a more normal way, these visits are known as 'contact visits' and are considered a privilege. In other prisons, such as prison farms or minimum security prisons, visits are more lengthy and relaxed, and the visitor is not required to speak to the prisoner through a glass partition.

Question 7. *"What is the previous occupation most common for those people sent to prison?"*

Most prisoners are unskilled and many are unemployed at the time of imprisonment. In a census conducted in 1976 it was found that only 17% of prisoners in Fremantle Prison at that time had qualifications of skills. A significant proportion, around 15% were illiterate for all intents and purposes.

## LOCATIONS OF INSTITUTIONS & POLICE GAOLS IN W.A.



Question 8. *"Most prisoners are in prison for offences relating to: "*

Offences against good order (e.g. traffic offences, drinking and disorderly) are slightly more predominant than offences against property. Drug offences make up a very small percentage (less than 5%) as do crimes of violence (less than 10%) of all offences. If the percentage is calculated on Daily Average Muster, then the majority of prisoners are in for offences against property.

Question 9. *"How old are most prisoners?"*

Most prisoners are young male adults, about half of the prisoners are under 25 years old and the bulk of the rest are mostly under 34 years of age. There are very few prisoners older than their mid-forties. Some commentators have suggested that age (maturity) is the biggest factor associated with the prevention of further crime. Some prisoners simply mature and settle into marriage and raising a family.

Question 10. *"How many offences were reported to the police in 1980?"*

In the 1979/80 reporting year just over 71,000 offences were reported to the police, in the last reporting year (1980/81) just over 73,000 offences were reported to the police. Since the late 1960's there has been a steady increase in reported crime not all of which can be attributed to population increases.

Question 11. *"Which of these statements most accurately describes the parole system?"*

The statement "A SYSTEM BY WHICH A PRISONER IS RELEASED ON A GOOD BEHAVIOUR BASIS FROM PRISON" of all the statements, best describes the parole system.

## Question 11 (cont'd)

Most sentences handed out by the courts in Western Australia specify a minimum term of imprisonment and maximum term of imprisonment. At the completion of the minimum term a prisoner is eligible to be paroled, that is released to the care of the Parole Service until the maximum term has expired. The decision to release a prisoner on parole is made by a Parole Board (which has lay members) and providing the prisoner does not break any of the rules of his parole order or re-offend, he can complete the remainder of his sentence in the community. Should the prisoner break this rule he must complete all of his parole sentence in prison.

Question 12. *"What is the average length of time most prisoners serve in prison?"*

The great majority of prisoners spend less than twelve months in prison. A non-parole sentence is reduced by one quarter provided the prisoner does not lose some or all of this right for bad behaviour. Many prisoners serve sentences of less than six months and a significant proportion serve relatively short sentences instead of paying fines or because they cannot pay fines. A person serving a sentence in default of paying a fine does so at a rate of one day's prison for \$20 of fine, e.g. a prisoner is fined \$500 which is 25 days prison less the one quarter remission.

Question 13. *"What is the ratio of prisoners to prison staff (staff:prisoners)?"*

This ratio of staff to prisoners is approximately one prison officer to every one and a half prisoners. This ratio is calculated on the average number of Corrections Department staff. If the ratio was calculated on the basis of uniformed prison staff below the rank of Chief Officer the ratio is approximately one staff for every two prisoners. Since the early 1960's this ratio has steadily declined from an average of approximately one staff member to every five or six prisoners to the present level. It should be borne in mind that since then more prisons have been built to house less prisoners and that it takes about four prison officers to man one position required 24 hours every day of the year.

Question 14. *"Per head of population the number of people imprisoned in W.A. compared to other states is."*

Western Australia's imprisonment is higher than all other states, on average Western Australia's rate of imprisonment is approximately 120 persons per 100,000 people in the state, all other states (except Northern Territory) have imprisonment rates of between 60-80 persons per 100,000 people. A recent government report attributed this difference to be largely due to the imprisonment of aboriginal people. Western Australia's imprisonment rate of non-aboriginals is close to the Australia average rate of 71 persons per 100,000, yet the rate for aboriginals is approximately 1,330 persons per 100,000 or seventeen times higher than the white imprisonment rate in Western Australia.

Question 15. *"How many prisoners escaped from prisons in Western Australia in 1980?"*

143 prisoners escaped from prison in the 1979/80 year and in the previous year 250 prisoners escaped. Over the last ten years an average of 161 prisoners escaped each year mainly from low security institutions and the great majority were recaptured soon after. In the year just ended, 1980/81, 72 prisoners escaped from prison.

Question 16. *"A prisoner's chances of returning to prison are about?"*

There is no accurate or reliable information available on this question. Estimates vary considerably from at best, 40% to at worst, 70%. The most reliable estimate for Western Australia puts the figure at around 50% chance of returning to prison for a further offence within the first two years of release.

Question 17. *"What percentage of prisoners are women?"*

The percentage is less than 4.3%, women represent a very small number, the daily average number of women in prison in Western Australia is approximately 41 persons compared to the 1,400 males.

Question 18. *"What percentage of prisoners are aboriginal (full blood and half caste)?"*

The percentage is approximately 32.6% of the daily average muster but this figure is much greater, around 53% of all receivals to prison. Aboriginals come to prison a lot more frequently than whites but in general for much shorter periods of time.

Question 19. *"What percentage of prisoners' offences are directly related to drugs (excluding alcohol)?"*

The percentage is very low, less than 2% of all offences yet if the percentage is calculated on the daily muster then it is higher.

Question 20. *"What percentage of prisoners' offences are directly related to alcohol?"*

About 15% (14.71%) of offences are directly related to alcohol, most of which are to do with drunkenness and drunk driving.

Question 21. *"What percentage of prisoners' offences are driving offences?"*

28% of offences are related to driving including those related to drinking and driving. If you include unlawful use of motor vehicles the percentage is around 32%.

Question 22. *"The percentage of prisoners who are not actively employed in prison institutions is:"*

There is no accurate or reliable record, estimates vary considerably depending on the definition of employment and the institution considered. The best estimate puts the figure at around two thirds and the worst about 45%.

Question 23. *"What percentage of crimes or offences are reported to the police?"*

There is no data other than speculative estimates derived from surveys of victims. In fact the proportion of reported crimes (that is, offences that are actually reported to the police) to the total number of crimes is unknown. We know that many crimes, particularly those of a less severe nature are never reported to the police. Your guess is as good as anyone else's.

Question 24. *"What is the percentage of reported crimes that are solved?"*

Estimates are difficult to simplify, again depending on what one means by "solved". About 18.5% of all offences reported result eventually in imprisonment. However police "clearance rates" include offences brought to prosecution and those successfully prosecuted but that do not lead to the sentence of imprisonment thus the "clearance rate" is much higher, estimated at around 55% overall and varies according to the particular offence.

Question 25. *"What percentage of persons sent to prison are unemployed at that time?"*

Around half of all prison receivals are unemployed at the time of imprisonment (this figure may be inflated as it does not measure employment at time of arrest).

BIBLIOGRAPHY AND REFERENCES

- Adams, S. (1977) *"Evaluating Correctional Treatments Towards a New Perspective"* Criminal Justice and Behaviour. Vol 4, No 4
- Alexander, C.S. (1978) *"The Use of Vignettes in Survey Research"* Public Opinion Quarterly Vol 42, No 1
- Al-Thakeb, I., Scott, J. (1981) *"The Perceived Seriousness of Crime in the Middle East"* International Journal of Comparative and Applied Criminal Justice Vol 5 No 2
- Anderson, T.W. (1958) *An Introduction to Multivariate Statistical Analysis* John Wiley, New York
- Antunes, G., Scott E.J. (1981) *"Calling the Cops: police telephone operators and citizen calls for service"* Journal of Criminal Justice Vol 9, No 2
- Australian Foundation on Alcoholism and Drug Dependence (1982) *Social Policies on Drugs, Alcohol, Cannabis, Heroin: a discussion paper* Canberra
- Australian Law Reform Commission (1975) *Complaints Against Police - Report* Parliamentary Paper No 68, Australian Government
- Bailey, W.C. (1966) *"Correctional Outcome: an evaluation of 100 reports"* Journal of Criminal Law, Criminology and Police Science Vol 57
- Balkin, S. (1979) *"Victimisation Rates, Safety and Fear of Crime"* Social Problems Vol 26, No 3
- Banks, C., Maloney, E., Willcock, H.D. (1975) *"Public Attitudes to Crime and the Penal System"* British Journal of Criminology Vol 15, No 3
- Barrett, C.T., Renner, K.E., Moore, T. (1979) *"Problem Interactions between the Police and the Public"* Crime and Justice Vol 7, 8/2
- Bayer, R. (1981) *"Crime, Punishment and the Decline of Liberal Optimism"* Crime and Delinquency Vol 27, No 2
- Beccaria, C. (1764) *On Crimes and Punishment* translated by H. Paolucci, Bobbs-Merrill, Indianapolis, 1963
- Becker, H.S. (1963) *Outsiders: Studies in the Sociology of Deviance* Free Press, London (1973)
- Benson, P.R. (1981) *"Political Alienation and Public Satisfaction with Police Services"* Pacific Sociological Review Vol 24, No 1
- Biles, D. (1979) *"Crime and the Use of Prisons"* Federal Probation June
- Birkinshaw, P. (1981) *"The Closed Society - Complaint Mechanism and Disciplinary Proceedings in Prisons"* Northern Ireland Legal Quarterly Vol 32
- Bishop, G.F. et al (1980) *"Pseudo-Opinions on Public Affairs"* Public Opinion Quarterly Vol 44, No 2
- Black, D.J. (1976) *The Behaviour of Law* Academic Press, London



- Blom-Cooper, L. Drabble, R. (1982) *"Police Perception of Crime: Brixton and the Operational Response"* British Journal of Criminology Vol 22, No 2
- Blumstein, A. et al (1980) *"Sentencing of convicted offenders: An analysis of the Public's View"* Law and Society Review Vol 14
- Bottomley, A.K. (1979) *Criminology in Focus: Past Trends and Future Prospects* Martin Robertson, Oxford
- Bottomore, T.B. (1962) *Sociology: A Guide to Problems and Literature* Unwin, London (1972)
- Bowker, L.H. (1981) *"Crime and the Use of Prisons in the United States: A Time Series Analysis"* Crime and Delinquency Vol 27, No 2
- Box, S. Rubell, K., (1975) *"Politics of Discreditability - Disarming Complaints against Police"* Sociological Review Vol 23, No 2
- Braithwaite, J. (1981) *Challenging Just Deserts: The Sentencing of White Collar Criminals* Unpublished, Australian Institute of Criminology
- Braithwaite, J. (1980) *Prison Education and Work* University of Queensland Press, St Lucia
- Braithwaite, J., Biles, D. (1980) *"An Overview of Findings from the First Australian National Crime Victims Survey"* ANZ Journal of Criminology Vol 13.
- Braithwaite, J., Biles, D. (1980) *"Crime Victimization Rates in Australian Cities"* A.N.Z.J.S., Vol 16, No 1
- Brillon, Y. (1980) *"Researches on Public Attitude and Crime: Evolution and Assumptions"* Crime and Justice Vol 7, No 1/2
- Brinsden, Justice (1981) *Report of the Working Party on the Legal Profession in Western Australia* Government Printer, Perth
- Burrows, J., Ekblom, P., Heal, K. (1979) *Crime Prevention and the Police* Home Office Research Study No 55, H.M. Stationery Office, London
- Buchner, D. (1979) *"Scale of Sentence Severity"* Journal of Criminal Law and Criminology Vol 70, No 2.
- Carlson, H.M., Sutton, S.M. (1979) *"Some factors in Community Evaluation of Police Street Performance"* American Journal of Community Psychology Vol 7, No 6
- Charles, M.T. (1980) *"The utilization of attitude surveys in the police decision-making process"* Journal of Police Science and Administration Vol 8, No 3
- Childers, T.L., Skinner, S.J. (1979) *"Gaining Respondent Co-operation in Mail Surveys through Prior Commitment"* Public Opinion Quarterly Vol 43, No 4
- Christenson, R.M., and McWilliams, R.O. (eds) (1962) *Voice of the People: Reading in Public Opinion and Propaganda* McGraw-Hill, New York (1967)
- Clarke, A.H., Lewis, M.J. (1982) *"Fear of Crime among the Elderly"* The British Journal of Criminology Vol 22, No 1

- Clarke, D.H. (1982) "Justifications for Punishment" Contemporary Crises Vol 6, No 1
- Clarkson, G.D., QC (1981) Report of the Royal Commission on Allegations in Relation to Prisons and Certain Related Matters Government Printer, Adelaide
- Cochrane, R. et al (1980) "The values of police officers, recruits and civilians in England" Journal of Police Science & Administration Vol 2
- Cohen, L.E. et al (1981) "Social Inequality and Predatory Criminal Victimization. An exposition and test of a Formal Theory" American Sociological Review Vol 46
- Cohen, S. (1979) "The Punitive City: notes on the dispersal of social control" Contemporary Crises Vol 3, No 4
- Cohen, S. (ed) (1971) Images of Deviance Penguin, Harmondsworth
- Cohen, S. (1973) Folk Devils and Moral Panics: The Creation of Mods and Rockers Paladin, St Albans
- Cohen, S., Young, J. (eds) (1973) The Manufacture of News: Social problems, Deviance and the mass media Constable, London
- Cox, B., Shirley, J., Short, M. (1977) The Fall of Scotland Yard Penguin, Harmondsworth
- Criminological Research Conference, "Public opinion on crime and criminal justice" Reports presented to the 13th Conference, Strasbourg, Council of Europe (Collected Studies in Criminological Research, Vol 17)
- Cutter, S.C., (1981) "Community Concern for Pollution: Social and Environmental Influence" Environment and Behaviour Vol 3, No 1
- D'Anjou, L.J.M. (1978) "Demanding more severe punishment: outline of a Theory" British Journal of Criminology Vol 18
- Daunton-Fear, M.W. (1977) Sentencing in Western Australia University of Queensland/Australian Institute of Criminology, St Lucia
- Dengate, C.E. (1975) Prison System of W.A.: Development from the 1950's to 1974 Law School, Australian National University, Canberra
- Dacey, A.V. (1914) Law and Opinion in England in the Nineteenth Century MacMillan, London (1930)
- Denyer, T., Callinder, R., Thompson, D. (1975) "The Policeman as Alienated Labourer" Journal of Police Science and Administration Vol 3, No 3
- Ditton, J. (1979) Contrology: Beyond the New Criminology MacMillan, London
- Dixon, O. (Chairman) (1981) Inquiry into the Rate of Imprisonment Government Printer, Perth

- Dixon, O.F. (1982) The Report of O.F. Dixon on A. The action taken by the police regarding allegations of Graft and Corruption within the Police Force, and B. What further action is necessary regarding such allegations Government Printer, Perth
- Duckworth, A.M.E., Foley-Jones, C.R. (1981) An Evaluation of the Report of the Committee of Inquiry into the Rate of Imprisonment Unpublished Report, August
- Durant, T.J. et al (1980) "Social tolerance for crime and deviance: an exploratory analysis" Deviant Behaviour Vol 3-4
- Emery, F.E. (1961) Freedom and Justice Within Walls: The Bristol Prison Experiment Tavistock, London (1971)
- Erickson, M.L., Gibb, J. (1979) "Community Tolerance and Measures of Delinquency" Journal of Research in Crime and Delinquency Vol 16, No 1
- Erskine, H. (1974/75) 'The Polls: "Fear of Violence and Crime"; "Causes of Crime"; "Control of Crime and Violence"; "Politics and Law and Order" ' Public Opinion Quarterly Vol 38, 39
- Eysenck, H.J., Nias, D.K.B. (1980) Sex, Violence and the Media Granada, Toronto
- Fagan, R.W., (1978) Sources of pro-criminal justice system sentiment; the relationship between knowledge about the support for the criminal justice system Ann Arbor Mich., University Microfilms International (Dissertation, Washington State University)
- Fairchild, E.S. (1981) "Interest Groups in the Criminal Justice Process" Journal of Criminal Justice Vol 9, No 2
- Fink, A.E. (1938) Causes of Crime: Biological Theories in the United States 1800-1915 Perpetual edition, New York (1962)
- Fishman, M. (1978) "Crime Waves as Ideology" Social Problems Vol 25, No 5
- Fitzgerald, M. (1977) Prisoners in Revolt Penguin, Harmondsworth
- Fogel, D. (1976) We Are the Living Proof: The Justice Model of Corrections Cincinatti, Anderson
- Forgas, J.P. (1980) "Images of Crime: a multidimensional analysis of individual differences in crime perception" International Journal of Psychology Vol 15, No 4
- Foucault, M. (1977) Discipline and Punish Penguin, Harmondsworth
- Gabor, T. (1981) "The Crime Displacement Hypothesis: an Empirical Examination" Crime and Delinquency Vol 27, No 3
- Genova, B.K.L., Greenberg, B.S. (1979) "Interests in News and the Knowledge Gap" Public Opinion Quarterly Vol 43, No 1
- Gibbs, J.P. et al (1979) "Conceptions of Criminal and Delinquent Acts" Deviant Behaviour Vol 1, No 1

- Gibbs, J.P., Erickson, M.L. (1978) "Objective and perceptual properties of legal punishment and the deterrence doctrine" Social Problems Vol 25
- Glaser, D. (1978) "The Counterproductivity of Conservative Thinking About Crime" Criminology Vol 16, No 2
- Grasmich, H.G. et al (1980) "The deterrent effect of perceived severity of punishment" Social Forces Vol 59, No 2
- Griffith, J.A.G. (1977) The Politics of the Judiciary Fontana/Collins, Glasgow
- Haag, P.J. (1980) "Constitutional Status of the Police - Complaints and their Investigation" Australian and New Zealand Journal of Criminology Vol 13, No 3
- Hain, P. (ed), Kettle, M., Campbell, D., Rolle, J. (1980) Policing the Police Vol 2, John Calder, London
- Hamilton, V.L. et al (1979) "The Capital punishment debate: public perceptions of crime and punishment" Journal of Applied Social Psychology Vol 9, No 4
- Harding, R. (1979) Outside Interference: The Politics of Australian Broadcasting Sun, Melbourne
- Harris, L. et al (1968) The Public looks at Crime and Corrections Govt. Commission on Correctional Manpower and Training, Washington
- Hawkins, D.F. (1980) "Perceptions of Punishment for Crime" Deviant Behaviour Vol 1, No. 2
- Hawkins, G. (1976) The Prison: Policy and Practice University of Chicago Press, Chicago
- Hall, T. (1979) White Collar Crime in Australia Harper and Row, Sydney
- Heller and McEwen (1973) "Applications of Crime Seriousness Information in Police Departments" Journal of Criminal Justice No. 1
- Hepburn, J.R., Law, J.H., (1980) "Prisoner Redress: analysis of an inmate grievance procedure" Crime and Delinquency Vol 26
- Herlihy, J.M., Kenny, R.G. (1978) An Introduction to Criminal Law in Queensland and Western Australia. Butterworths, Granville
- Himmelfarb, S. (1980) "Reporting and Non Reporting of Observed Crimes: Moral Judgements of the Act and Actor" Journal of Applied Social Psychology Vol 10, No 1
- Hoffman, E. (1980) "Perceived severity and Justifiability of a deviant act and their relationship to suggested sanctions" Perceptual and Motor Skills Vol 51, No 1
- Honderick, T. (1979) Punishment: The Supposed Justification Penguin, Harmondsworth (Hutchinson, 1969)
- Hood, R. (ed) (1974) Crime, Criminology and Public Policy: Essays in Honour of Sir Leon Radzinowicz Heininer, London

- Hood, R., Spark, R. (1974) Key Issues in Criminology World University Library, London
- Hopkins, A. (1981) "Class Bias in the Criminal Law" Contemporary Crises Vol 5
- Humphries, D. (1981) "Serious Crime, News Coverage and Ideology: a content analysis of crime coverage in a metropolitan paper." Crime and Delinquency Vol 27, No 2
- Jayewardene, C.H.S. et al (1980) "The Public Opinion Argument in the Death Penalty Debate" Canadian Journal of Criminology Vol 22, No 4.
- Jayewardene, C.H.S., Lang, S., Gainer, C. (1977) "Changing Attitudes to the Criminal Justice System through Formal Education" Crime and Justice Vol 5, No 2
- Jones, H.J. (1980) "Generalising Mail Survey Inducement Methods: Population Interactions with Anonymity and Sponsorship" Public Opinion Quarterly Vol 43, No. 1
- Jones, H. (ed) (1981) Society Against Crime: Penal Practice in Modern Britain Penguin, Harmondsworth
- Kalton, G., Collins, M. and Brook, L. (1978) "Experiments in Wording Opinion Questions" Applied Statistics Vol 27, No 2.
- Kepplinger, H.M., Roth, H. (1979) "Creating a Crisis: German Mass Media and Oil Supply in 1973-74" Public Opinion Quarterly Vol 2, No 3
- Klaure, H. (1973) People in Prison Pitman & Sons, London
- Klantz, B., Beaman, A.L. (1981) "The effects of type of information and method of dissemination on the reporting of a shoplifter" Journal of Applied Social Psychology Vol 11, No 1
- Kinder, B.N., Paper, N.E., Walfish, S. (1980) "Drug and alcohol education programs: a review of outcome studies" International Journal of Addiction Vol 15, No 7
- Law Enforcement Assistance Administration, (1976) "Crimes and Victims: A report on the Dayton-San Jose Pilot Survey of Victimization" U.S. Govt. Printing Office, Washington
- Lewis, D.A., Salem, G. (1981) "Community Crime Prevention: An analysis of a developing Strategy" Crime and Delinquency Vol 27, No 3.
- Lewis, D.A., and Maxfield, M.G. (1980) "Fear in the Neighbourhood: An Investigation of the Impact of Crime" Journal of Research in Crime and Delinquency July
- Lipton, D. et al (1975) The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies Praeger, New York
- Longmire, D.R. (1981) "A popular justice system: a radical alternative to the traditional criminal justice system" Contemporary Crises Vol 5, No 1
- Mannheim, H. (ed) (1972) Pioneers in Criminology 2nd ed. Patterson Smith, New Jersey
- Masterman, G.G., QC (1982) Report: On the Effectiveness of the Role of the Ombudsman in Respect of Complaints Against the Police unpublished report to Premier and Minister for Police, New South Wales.

- Mathieson, T. (1976) *The Politics of Abolition* Scandinavian Studies in Criminology No 4, Martin Robertson, Oslo
- Maxfield, M.G., Lewis, D.A. and Szoc, R. (1980) "Producing Official Crimes: verified crime reports as measures of police output" *Social Science Quarterly* Vol 61, No 2
- Mawby, R.I. (1980) "Witnessing Crime. Toward a Model of Public Intervention" *Criminal Justice Behaviour* Vol 7, No 4
- McArthur, V. (1974) "Inmate Grievance Mechanisms - Survey of 209 American Prisons" *Federal Probation* Vol 38, No 4
- McConville, M., Baldwin, J., (1982) "The Role of Interrogation in Crime discovery and Conviction" *The British Journal of Criminology* Vol 22, No 2
- McKirnan, D.J. (1980) "Community Differences in Conceptions of Deviant Behaviour: An exploratory Study of Attitudes toward Alcohol Related Help Sources" *American Journal of Community Psychology* Vol 8, No 6
- McPherson, M. (1978) "Realities and perceptions of crime at the neighbourhood level" *Victimology* Vol 3, No 3/4
- Milbraith, L.W. (1981) "Citizen Surveys as Citizen Participation Mechanisms" *The Journal of Applied Behavioural Science* Vol 17, No 4
- Milburn, M.A. (1979) "A longitudinal test of the Selective Exposure Hypothesis" *Public Opinion Quarterly* Vol 43, No 4
- Mitford, J. (1973) *The American Prison Business* Allen and Unwin, New York
- Morris, M. (ed) (1976) *Instead of Prisons: A Handbook for Abolitionists* Research Education Action Project, New York
- Morris, N. Hawkins, G. (1974) *The Honest Politician's Guide to Crime Control* University of Chicago Press, Chicago
- Morris, N (1974) *The Future of Imprisonment* University of Chicago Press, Chicago
- Morrison, J.K. (1980) "The Public's Current Beliefs about Mental Illness: Serious Obstacle to Effective Community Psychology" *American Journal of Community Psychology* Vol 8
- Nesdale, A.R. (1980) "The Law and Social Attitudes: Effects of Proposed Changes in Drug Legislation on Attitudes Toward Drug Use" *Canadian Journal of Criminology* Vol 22
- Newman, C. (1976) *Comparative Deviance: Perception and law in six cultures* Elsevier, New York
- Nizan, P. (1960) *The Watchdogs: Philosophers and the Established Order* Monthly Review Press, New York (1972)
- Noelle-Neumann, E. (1979) "Public Opinion and the Classical Tradition: A Re-evaluation" *Public Opinion Quarterly* Vol 43, No 2
- Norrie, A.W. (1982) "Marxism and the Critique of Criminal Justice" *Contemporary Crises* Vol 6, No 1
- Nova Yan, Gias, C (1977) *Multivariate Statistical Inference* Academic Press, New York

- Packer, H.L. (1969) *The Limits of the Criminal Sanction* Stanford University Press, Stanford.
- Paletz, D.L. et al (1980) "Polls in the Media: Content Credibility, and Consequences" *Public Opinion Quarterly* Vol 44
- Parker, H., Casburn, M., Turnball, D. (1980) "The Promotion of Punitive Juvenile Justice" *The British Journal of Criminology* Vol 20, No 3
- Paternoster, R., Bynum, T. (1982) "The Justice Model as Ideology: a critical look at the impetus of sentencing reform" *Contemporary Crises* Vol 6, No 1
- Pearce, F. (1976) *Crimes of the Powerful: Marxism, Crime and Deviance* Pluto Press, London
- Peek, C.W., Alston, J.P., Lowe, G.D. (1978) "Comparative evaluation of the Local Police" *Public Opinion Quarterly* Vol 42, No 3
- Podgorecki et al (1973) *Knowledge and Opinion about Law* Martin Robinson, London
- Presidents Commission on Law Enforcement (1967) *The Challenge of Crime in a Free Society* U.S. Dept of Justice, Washington
- Quinney, R., Wildeman, J. (1977) *The Problem of Crime: an Introduction to Criminology* 2nd ed. Harper Row, New York
- Radzinowicz, L., Wolfgang, M.E., (eds) (1971) *Crime and Justice: The Criminal in Confinement* Vol 3, Basic Books, New York
- Radzinowicz, L., King, J. (1977) *The Growth of Crime* Penguin, Harmondsworth
- Roberts, S. (1979) *Order and Dispute: An Introduction to Legal Anthropology* Pelican, Penguin, Harmondsworth
- Rokeach, M., Miller, M., Snyder, J., (1971) "The Value Gap between Police and Policed" *Journal of Social Issues* Vol 27, No 2
- Sacco, V.F., Silverman, R.A., (1981) "Selling Crime Prevention: the evaluation of a mass media campaign" *Canadian Journal of Criminology* Vol 23, No 2
- Sallman, P.A. (1981) "The Police and the Criminal Justice System" *ANZ Journal of Criminology* Vol 14, No 1
- Sanson-Fisher, R., Woollacott, H., and Mulligan, B., (1980) "Knowledge of the Law: The Disadvantaged Delinquent?" *ANZ Journal of Criminology* Vol 13
- Savat, A. (1977) "Support for the Legal System: An Analysis of Knowledge, Attitudes and Behaviour" *American Politics Quarterly* Vol 3, No 1
- Scherest, D. (1969) "Comparisons of Inmates and Staffs Judgement of the Severity of Offences" *Journal of Research in Crime and Delinquency* Vol 6
- Schichor, D. (1980) "The New Criminology: Some Critical Issues" *The British Journal of Criminology* Vol 20, No 1
- Schichor, D., Decker, D., O'Brien, R. (1980) "The Relationship of Criminal Victimization Police per capita and Population Density in twenty-six cities" *Journal of Criminal Justice* Vol 8

- Schuman, A., Presser, S., Ludwig, J., (1981) *"Content Effects on Survey Responses to Questions about Abortion"* Public Opinion Quarterly Vol 45, No 2
- Scott, J.E., Althakeb, F. (1977) *"The Public's Perceptions of Crime: A Comparative Analysis of Scandinavia, Western Europe, the Middle East and the United States"* Crime and Justice August
- Sebba, L. (1980) *"Is Mens Rea a Component of Perceived Offence Seriousness?"* The Journal of Criminal Law and Criminology Vol 71, No 2
- Sellin, T., Wolfgang, M.E. (1964) *The Measurement of Delinquency* (Introduction by Stanley Turner) Patterson Smith, New Jersey 1978
- Sexton, M., Maher, L. (1982) *The Legal Mystique: The role of Lawyer in Australian Society* Angus and Robertson, Melbourne
- Sharp, E.G. (1980) *"Citizens Perceptions of Channels for Urban Service Advocacy"* Public Opinion Quarterly Vol 44, No 3
- Sheley, J.F. (1980) *"Crime Seriousness Ratings - The Impact of Survey Questionnaire Form and Item Context"* British Journal of Criminology Vol 20, No 2
- Singh, A., Jayewardene, C.H.S. (1978) *"Philosophical Consistency in Public Attitudes on Crime and Justice"* ANZ Journal of Criminology Vol 11
- Skogan, W.G. (1977) *"Public Policy and the Fear of Crime in Large American Cities"* Gardiner, J.A. (ed) Public Law and Public Policy Praeger, New York
- Skogan, W.G., (1975) *"The Victims of Crime: Some National Survey Findings"* in Gardiner, J., Mulkey, M., (ed) Criminal Behaviour and Social Systems Rand, McNally, Chicago
- Smith, B. (1949) *Police Systems in the United States* Harper, New York
- Sosdian, C.P., Sharp, L.M. (1981) *"Non-Response on Mail Surveys: Access Failure or Respondent Resistance"* Public Opinion Quarterly Vol 44, No 2
- Souchar, H. (1979) *The Enforcement of Penal Law by the Police* 18th French Congress of Criminology, Aix-en-Provence
- Sparks, R.F., Genn, H.G., Dodd, J.J. (1977) *Surveying Victims: A Study of the measurement of criminal victimization, perceptions of crime, and attitudes to criminal justice* John Wiley and Sons, London
- Steadman, H.J., Coccozza, J.J. (1977/78) *"Selective Reporting and the Public's Misconceptions of the Criminally Insane"* Public Opinion Quarterly Vol 41, No 4
- Stone, H. (1950) *The Province and Function of Law* Harvard University Press
- Sutherland, E.H. and Cressey, D.R. (1955) *Criminology* Lippincott, New York (1970)
- Sykes, G.M. (1956) *Crime and Society* Random House, New York (1962)



- Sykes, G.M. (1978) Criminology Harcourt Bruce, New York
- "Symposium on the Measurement of Delinquency" (1975) Journal of Criminal Law and Criminology Vol 6, No 2
- Talatico, S.M. (ed) (1980) Criminal Justice Research: Approaches Problems and Policy Anderson, USA
- Taylor, I., Walton, P., Young, J. (eds) (1975) Critical Criminology Routledge and Kegan Paul, London
- Taylor, I., Walton, P., Young, J. (1973) The New Criminology: for a Social Theory of Deviance Routledge and Kegan Paul, London
- Taylor, I. (1981) "Crime Waves in Post-War Britain" Contemporary Crises Vol 5, No 1
- Terrill, R.J. (1980) "Complaints Against Police: The movement for change in England, Canada and Australia" Police Studies Vol 3
- Thomas, J., Stewart, A. (1978) Imprisonment in Western Australia: Evolution Theory and Practice. University of Western Australia Press, Perth
- Tomasic, R., (1978) Understanding Lawyers George Allen and Unwin, Sydney
- Tomasic, R., Dobinson, I. (1979) The Failure of Imprisonment George Allen and Unwin, Sydney
- Trojanowicz, R.C., Dixon, S.I. (1974) Criminal Justice and the Community Prentice-Hall, New Jersey
- Van Dijk, J.J.M. (1978) "Public Attitudes towards Crime in the Netherlands" Victimology Vol 3, No 3 and 4
- Vidmay, N. et al (1980) "Social psychological processes underlying attitudes towards legal punishment" Law and Society Review Vol 14, No 3
- Vinson, A., (1982) Wilful Obstruction Methuen, Sydney
- Vollmer, A. (1936) The Police and Modern Society University of California Press, Berkeley
- US Department of Justice (1977) "Public Opinion about Crime" The Attitudes of Victims and Non-Victims in Selected Cities US Govt. Printing Office, Washington
- Walker, M.A. (1971) Crimes, Courts and Figures: An Introduction to Criminal Statistics Penguin, Hammondsworth
- Walker, N. (1971) "Psychophysics and the Recording Angel" British Journal of Criminology Vol 11, No 2
- Warr, M. (1980) "The accuracy of public beliefs about crime" Social Forces Vol 59, No 2
- Warren, N. and Jahoda, M. (eds) (1973) Attitudes Penguin, London (2nd ed)
- Webb, D. (1981) "A Forgotten Radical" The British Journal of Criminology Vol 21, No 2

Welsh, S. (1981) "*The Manufacture of Excitement in Police-Juvenile Encounters*" British Journal of Criminology Vol 21, No 3

Whittaker, D.J. (1979) "*Attitudes towards corporal punishment amongst student teachers*" Durham and Newcastle Research Review Vol 9, No 43

Wilkinson, M. (1982) "*Prison Politics*" National Times 29 August - 4 September

Wilson, J.Q. (1975) Thinking About Crime Basic Books, New York

Wilson, P.R., Brown J.W. (1973) Crime and the Community University of Queensland Press, St Lucia.

Wilson, P.R., Braithwaite, J. (eds) (1978) Two Faces of Deviance University of Queensland Press, St Lucia.

Windshuttle, K., Windshuttle, E. (1981) Fixing the News: Critical Perspectives on the Australian Media Casell, Sydney

Winnick, C. (ed) (1978) Deviance and the Mass Media Sage Publications, Beverley Hills