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Sentencing of sex-offenders: A survey study investigating judges' sentences and community perspectives.

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Abstract

This study asked a Victorian, representative sample to rate 4 cases of sexual assault on applicability of sentence type and recommended sentence. The four cases included male child sexual assault, female child sexual assault, opportunity rape and 'blitz' rape. Participants' responses were analysed as a whole and also by gender, victimisation history and educational level. Results suggest that judges' sentences in these cases are reflected rather well in public sentiment, irrespective of gender, educational level and victimisation history. For child sex offences only, people were more inclined to advocate a criminogenic needs approach to offender treatment than a good lives model of treatment - although the differences were very small. In the case of 'blitz' rape people displayed a small preference for a good lives model of treatment.

Despite current media focus on the ‘insufficiencies of sexual offender sentences’ in Australia, there is little research evidence as to whether the justice system is truly ‘out of touch’ with the needs and wants of victims and the general public (Casey & Mohr, 2005). Few studies have directly compared bona fide sentences handed down by the judiciary with those of punishments deemed appropriate by members of the community for the same crime. Such a lack of research-based knowledge on whether the judiciary has community support appears to be a major concern. The aim of this investigation is, therefore, to provide evidence as to whether the criminal justice system is representative of the community, particularly victims, in the sentencing of sexual offences.

For the purposes of this investigation the term sexual assault is defined as a sexually driven physical assault directed towards another, where consent has not been given, consent was obtained as a result of intimidation or fraud, or the individual is legally unable to provide consent. Under Victorian State law this includes rape, unlawful sexual penetration, incest and indecent assault (Australian Bureau of Statistics, 2001).

According to Victoria Police 1,209 cases of rape were reported during 2002 – 2003. Of these offences, 307 victims were juveniles and 736 were adults, while 89% of all victims were female. One hundred and sixty six victims reported more than one case of rape during this period. The majority of victims were aged 15-19 years old. In this 12-month period 792 charges were laid, a decrease of 14.2% on the previous year (Victorian Police, 2003).

Community principles of civility and international human rights agreements restrict the level of punishment which can be handed down under Australian law for violent crimes, such as sexual assault. The most severe punishment which can be imposed under the Australian legal system is imprisonment (up to the maximum specified by the statute) while the less severe options involve one or more non-custodial alternatives (community service and/or probation). An appeal system is also available to both the defendant and the Crown, with sentences able to be petitioned as being too harsh or too lenient respectively (Australian Institute of Criminology, 1989).

Justice is often categorised into two models – restorative or retributive. The restorative model focuses on the idea of restoring the victim, offender and the community back to the condition they/it was in prior to the offence being committed. Conversely retributive justice focuses on punishing the offender, rather than the need to restore the victim and the offender (Strang, 2002). Consequently questions and arguments are frequent over the appropriateness or inappropriateness of each model when dealing with serious offences.

It has recently been suggested that the model deemed most appropriate by members of the community for use within the justice system may be dependent upon whether the individual themselves has been a victim of crime. That is, it has been reported that members of the general population who have not been victims of crime have wanted a justice system focused on the retributive model (Parfitt, 1996). Conversely victims of crime have been reported as seeking a justice system that emphasises restoration (Strang, 2002).

Parfitt (1996) highlighted the general public's preference for a retributive form of justice. Forty-five members of the general public from the western suburbs of Melbourne were asked to impose a sentence for individual offenders found guilty of rape, with each case being based on a real-life example. Although the study only used a small sample, Parfitt's results revealed the general public were more likely to assign harsher sentences than were actually handed down by the judge, suggesting inconsistencies between the judges' ruling and the public's opinion on how the offender should be prosecuted.

Similarly Ray (1982) found that when respondents from a general sample were instructed to determine sentences in relation to brief descriptions of actual crimes, the sentences imposed by most subjects were more severe than those imposed by the courts.

Additionally, in a national survey by Eastaugh (1992) of the Australian Institute of Criminology, public satisfaction or dissatisfaction with the justice system and its approach to rape were investigated. In order to reach a wider audience the author published the survey in Murdoch newspapers and advertised at the conclusion of a documentary on sexual assault aired by the

Australian Broadcasting Commission. As a result 6588 surveys were completed, with the majority of the respondents being female. The survey contained a variety of statements relating to sexual assault victims, offenders and the act of rape itself, with participants having to rate their agreement or disagreement with each. In regards to opinions relating to the justice system's dealings with sexual crimes, respondents' opinions were examined in relation to two directional statements ("Judges are too lenient on convicted rapists" and "The laws concerning rape are too lenient".) Respondents were required to rate on a 5-point Likert-type scale their agreement or disagreement with both statements. Unsurprisingly, given the method of questioning and recruitment strategy, the results revealed a majority of participants agreed that judges and laws dealing with rapists and rape were too lax.

Conducive to the findings of Ray (1982), Easteal (1992) and Parfitt (1996), empirical research conducted by Berk and Rossi (1995) of the U.S Sentencing Commission explored public opinion on sentencing for offenders convicted of violating the American federal criminal code. Participants were presented with 42 case vignettes, each describing a person convicted of one of 20 crimes, including offences such as drug trafficking, street robbery, and minor fraud. Respondents were given a description of the convicted person in terms of their gender, family status, employment status and previous record. Berk and Rossi's study revealed that imprisonment (with a term greater than 1 year) was the most popular – a sentence given in more than 70% of vignette cases. The researchers also found that average sentences handed down by the respondents were consistently higher than median sentences actually handed down by the U.S judiciary.

In contrast, however, a 1992 survey of 2551 members of the community, commissioned by the Australian Institute of Criminology asked respondents for their views on the appropriateness of sentences for 13 different offences, including robbery, income tax evasion, and domestic violence. The investigators found that respondents largely agreed with typical court decisions, although there were significant areas where the public were at odds with the justice system, either being more or less punitive. Contrary to previous findings, the investigators found that of the violent crimes

surveyed (stabbing to death and heroin importation), only a small group of respondents opted for the most severe penalty. The researcher's believed the results illustrated that there was no 'one view' on punishment shared by all members of the community (Walker, Collins & Wilson, 1998).

While many studies have examined public opinion on the prosecution of criminal offenders by the justice system, few investigators have recorded the opinions of those directly involved in the crime itself, the victim, and compared their opinions with actual sentences handed down by the judiciary and compared them to the opinions of the general population. As such, the current study aims to fill this identified gap in the research by providing evidence of the needs and wants of sexual assault victims in the prosecution of sexual offenders.

Zehr (1990) suggests that victims of crime have needs which go beyond those of the general public and which should be addressed by the criminal justice system. It was proposed that the foremost need of victims of crime is compensation from the offender in order to reach a stage of recovery. The allocation of compensation to the victim is seen as being of symbolic significance, which surpasses that of any monetary value (van Dijk & Steinmetz, 1988). Other victim needs have included the victim's need for answers to basic questions, such as 'why me?', the need for an opportunity to communicate their emotions and the impact of their victimisation, the need for empowerment and the need to recover their sense of security and personal power.

In a study conducted by Strang (2002) at the Australian National University, victim reactions to the effectiveness of the court system were compared with that of conferencing. Conferencing was defined by Strang as the coming together of the offender, the victims and their supporters, in a trained facilitator led meeting, with the objective to discuss the damage done and how it can be repaired. Strang's investigation comprised 169 victims of crime, who were randomly assigned to either have their case processed in court or heard at a conference. After their case was concluded researchers asked victims about their feelings on the way they were dealt with under either system. In a similar way to Zehr (1990), Strang found the provision of material compensation, directly from the offender, was popular among the respondents. In addition to material compensation, victims

wanted emotional restoration, with a large majority believing an apology from the offender would be appropriate.

In addition to a history of victimization, socio-demographic variables such as gender and education level are believed to be influential on public attitudes towards sentencing (Parfitt, 1996). Several studies have tried to establish causal links between the respondents own socio-demography and opinions on appropriateness of penalty outcomes (Casey & Wilson, 1998). With regards to the variables of gender and education, it has been suggested that participants with less formal education are more likely to support more severe penalty options than those with higher education levels, while males are more likely to be more punitive than females, who are also more likely to recommend a community service sentence (Feather, Boeckmann and McKee, 2001); Parfitt, 1996). However, there is some confusion on this issue as Forsterlee, Fox, Forsterlee and Ho (2004) examined the influence of gender on decision making in a real murder trial, as well as the effect of a victim impact statement (VIS). Contrary to the findings of Feather, Robert, Boeckmann and McKee (2001) the investigators found that female participants were more likely than their male peers to find male defendants guilty. Females were also more likely to impose harsher sentences on the offender. The authors assessed 238 participants who were eligible for jury duty. Participants were presented with trial material, made up of a transcript based on an actual case, but the facts of the case were altered. The results also indicated that when the VIS was not presented male respondents delivered more lenient sentences for female offenders than male offenders, whereas female respondents did not draw such a distinction.

Many in the community have questioned the aim of the sentencing processes believing the system needs to go beyond incarceration and provide offenders with rehabilitation through treatment programmes (e.g., Howells & Day, 1999). While advancements in offender rehabilitation have taken place over the past 25 years in an effort to reduce offender recidivism, systematic collection of data relating to public opinion on the appropriateness of treatment and the type of treatment deemed apt for offenders, in particular sexual offenders, has been rare (Ogloff, 2002).

Many treatment programmes currently operating within Australia are programmes specific to treating the sexual offence. Such programmes concentrate on identifying factors which contribute to the likelihood of re-offending. These programmes may include victim empathy training, anxiety/aggression management strategies or overall identifying the offender's needs and looking at more adaptive (non-offence) ways of meeting these needs.

Research carried out by correctional psychologists Andrews and Bonta (1998) suggests that in order to reduce offender recidivism, offender treatment programmes should mainly target offender's criminogenic needs, a model labelled by the authors as the *Needs Principle*. The authors believe there are two types of needs – the criminogenic and non-criminogenic. Criminogenic needs are believed to be dynamic in nature and can directly affect the likelihood of recidivism, while non-criminogenic needs are believed by Andrews and Bonta to have little influence over the likelihood of re-offending. Examples of criminogenic needs are criminal associations, substance abuse and anti-social personality, while non-criminogenic needs are such factors as self-esteem, feelings of alienation and neighbourhood improvement.

In contrast however, recent research by Ward (2002), suggests that offender treatment programmes should not only concentrate on treatment specific to criminogenic needs, but also provide additional treatment programmes which concentrate on providing the basic building blocks upon which an offender can achieve a reasonable quality of life outside of prison, thereby decreasing their need to re-offend. Ward argues that such rehabilitation programme assume the idea of good lives. Ward defines *Good Lives* as ways of living that are beneficial and satisfying to the individual. In regards to the rehabilitation of offenders, Ward believes that in order to reduce offender recidivism, the establishment of good lives (or ways of living which are fulfilling and achievable) need to be instilled. Such programmes may include learning social skills, the ability to read and write, or gaining a sense of self-worth through meaningful employment. Under Ward's model of rehabilitation, offenders are believed to refrain from offending if they have the necessary skills, knowledge and resources which allow them to live lives away from crime. Ward believes that

offenders are more likely to re-offend if there is a lack of value outcomes in their lives (Ward & Stewart, 2003).

Although Andrews and Bonta (1998) and Ward (2002) argue that their specific model is more appropriate in reducing recidivism, neither investigating group has carried out research in order to gather community and victims' support on which, if any, treatment option they believe would be more appropriate when dealing with sexual offenders. Therefore this research aims to provide statistical evidence as to which programme is considered by a representative sample to be more appropriate when dealing with sexual assault offenders and whether this is influenced by the type of sexual crime committed.

Systematic collection of community commentary and opinions towards crime and punishment is considered to be rare in Australia (Walker, Collins & Wilson, 1998). Thus the purpose of this paper is to gather information on public opinion relating to punishment and treatment of offenders, focusing particularly on sexual offenders. This investigation further aims to uncover potential differences in opinions on appropriateness of punishment and treatment options for sexual offenders based on the respondent's history of victimization and socio-demography.

Method

Design

A mixed design was used for this research, using a between (gender, education level and victim status), and within (case; penalty options of community service, probation and imprisonment; additional penalty options of financial compensation and an apology) repeated analysis of variance (ANOVA). Paired samples t-tests were also conducted in order to compare treatment options (treatment programme targeting criminogenic needs and treatment programme targeting criminogenic needs as well as offender quality of life) for each sexual assault case vignette.

Materials

A single, self-report questionnaire, developed for this study, was administered to participants. Prior to completing the questionnaire, participants were required to read the participant information

sheet and sign the attached consent form. The questionnaire contained four brief sexual assault case vignettes, each describing a recent rape case tried in Australia or New Zealand. Victim and offender details were modified in order to ensure anonymity. No cases tried in the state of Victoria were used in the questionnaire, in order to reduce the risk of a victim having their own case presented to them. After reading each case vignette respondents answered questions as instructed. Cases were generally selected based on information availability, with only appellate court case transcripts being publicly attainable. Four different types of sexual assault cases were chosen, in order for comparisons to be made between respondents' opinions regarding the punishment and treatment of different sexual offenders. The four vignettes included were: a case of 'blitz' rape; a case of female child sexual assault; a case of male child sexual assault; and a case of opportunity rape with an intoxicated female victim. In all cases, the actual sentence handed by the judge was imprisonment (this information was not made available to the participants, who did not know that the vignettes were from actual cases). The four cases are presented in Appendix A

Each case was accompanied by three possible penalty options (community service, probation and imprisonment), as well as two possible treatment options. Each penalty option was scored on degree of appropriateness, via a 5-point Likert-type scale (1 = very inappropriate to 5 = very appropriate). Respondents who rated a penalty option of more than 3 (3 = not sure) were requested to answer an additional question relating to the amount of years they deemed appropriate for that penalty. In relation to the penalty option of "imprisonment", a further question specifying how many years before the offender should be eligible for parole was asked.

Two questions relating to additional penalty options were also asked. The first requested participants to rate the appropriateness of the offender financially compensating the victim/survivor. Responses were recorded on a 5-point Likert-type scale (1=very inappropriate and 5 = very appropriate). Those participants who nominated a rating of more than 3 (unsure), were required to answer an additional question asking how much financial compensation should the victim receive. The second question related to what degree the respondent thought an apology from the offender

would assist the victim/survivor. Responses were once again recorded on a 5-point likert-type scale (1 = not at all to 5 = very much so).

Demographic information relating to age, gender, highest educational level achieved and cultural/ethnic group was also collected. Additional information was gathered relating to the respondents own experience of sexual assault. Participants were asked whether they had ever been a victim/survivor of a sexual assault (“Yes”, “No”, and “I do not wish to answer this question”). If the response was “Yes”, a further question was asked as to whether the offender was prosecuted (“Yes”, “No”, “I do not know”, and “I do not wish to answer this question”). If the response to this question was “Yes” an additional question relating to whether the offender was found guilty (“Yes”, “No”, “I do not know”, and “I do not wish to answer this question”) was asked. The same questions were asked in turn relating to whether the respondent knew someone who had been a victim of a sexual offence, knew someone who was accused of a sexual offence and whether the respondent had ever been accused of a sexual offence themselves.

Participants

The sample comprised 115 participants, 68 female ($M = 34.62$ years $SD=12.84$) and 47 male ($M= 41.57$ years $SD = 14.38$). Participants were recruited voluntarily through a sexual assault service, the business community of Melbourne, and from within a university. A snowballing strategy was employed to obtain the participants. All participants were required to be 18 years and older and to complete the questionnaires in their own time and return them via a pre-paid envelope to the research centre. The majority of participants had completed tertiary education. In regards to culture, 81.74% of respondents identified themselves as belonging to the Australian culture/ethnic group, 6.96% identified with ‘other’, 4.35% Asian, 2.61% with Northern/Western Europe, 1.74% Southern/Eastern Europe, and 0.87% identified as being each of South American, African and Aboriginal & Torres Strait Islander. Of the total participants 17.39% of participants reported having been a victim/survivor of sexual assault, 52.17% knew someone who had been a victim/survivor of sexual assault, and 28.7% of respondents knew someone who had been accused of a sexual offence.

The number of respondents for each demographic variable, by sexual assault experience, for the sample is displayed in Table 1. In order to determine the representative nature of the current study's sample, comparisons with the Australian Bureau of Statistics (ABS; Abbasi, 2000) Victorian population figures were employed. Statistical comparisons between the two sample figures are also displayed in Table 1.

INSERT TABLE 1 HERE

Results

Coding & Data Cleaning

For those respondents who instead of nominating a specific term in years but wrote terms such as "Life" for imprisonment or "Never" for parole, the terms were coded as 25 years for "Life" (due to the justice system's assignation of "Life" being 25 years) and equal to the nominated prison term specified for "Never". For example in the case where a respondent specified 25 years for imprisonment and "Never" for parole, the parole term was then coded as 25 years. If an individual missed one question, that question was substituted for the mean of the entire sample.

A preliminary investigation of assumptions underlying the data suitability for analysis revealed that the assumption of normality and linearity were within normal bounds for the continuous variables of years specified for community service, years specified for probation, years specified for imprisonment, years specified for parole and specified amount of financial compensation for cases of female child assault, 'blitz' rape and opportunity rape. For case the of male child assault all but one continuous variable fell within normal bounds. For this case the variable of specified amount of financial compensation was found to be significantly positively skewed (Skewness = 1.02, Kurtosis = .794). Due to significant positive skewness, a logarithmic transformation (LG10) was conducted on the variable, although with little effect. However, due to the robust nature of ANOVA, the data was deemed suitable for further analysis. An alpha level of .05 was used for all statistical tests.

Sentencing Appropriateness

Looking at the appropriateness of community service, the analysis revealed a significant main effect for case vignette ($F(3,339) = 33.54, p < .001$). There was not a significant main effect for gender ($F(1,113) = .15, ns$) and there was no significant interaction between gender and case ($F(3,339) = 3.27, ns$). Likewise, a 2 (gender) by 4 (case vignette) repeated measures analysis of variance on the appropriateness of probation data revealed a significant main effect for case vignette ($F(3,339) = 35.51, p < .001$). As with community service there was not a significant main effect for gender ($F(1,113) = .13, ns$) and no significant interaction between gender and case vignette ($F(3,339) = .69, ns$). Ratings of appropriateness for both probation and community service showed people to see these options as less appropriate for child sexual assault than for the case of adult ‘blitz’ rape and opportunity rape.

The same type of results were obtained for imprisonment with an effect for case vignette, but not for gender or an interaction of these two. However, on average, the mean degree of appropriateness of the penalty option of imprisonment for each case was above 3, compared to below 3 for the options of community service and probation. The mean, mode and standard deviations for years specified by respondents who nominated imprisonment as appropriate or very appropriate are listed in Table 2. The actual sentences handed down by the sentencing judge in each case are also displayed. As can be seen, these are remarkably close to the mean and mode from our sample.

Education level And Punitiveness

Degree of appropriateness of each sentencing option (community service, probation and imprisonment) was also analysed by educational level (University level; completed any tertiary education; completed high school; completed some high school). In every case it was found that there was an effect for case vignette ($p < .001$) with community service and probation being seen as less appropriate for the two child assault cases and imprisonment for these two vignettes being judged as more appropriate than the adult rape cases. However, there was no significant effect for educational level and no significant interaction effect for educational level and case type for any of the sentencing options ($\alpha = .05$).

History of victimization and retributive justice

This analysis was conducted in order to assess whether those respondents who had not been victims of sexual assault would be more in favour of retributive forms of justice than respondents who had been victims, or vice versa. The independent variable was whether the participant had a history of victimization and the dependent variables were appropriateness of each sentencing option (community service, probation and imprisonment). With only 20 in the victim group, compared to 90 in the non-victim group (5 people elected not to answer this question), the unequal sample size led to larger confidence intervals. This led to the main effect of victim status being non-significant in all analyses. Interestingly, in three of the four cases, the mean appropriateness of imprisonment was higher as judged by victims compared to non-victims. However, although an F Value of 2.83 was obtained, this was not statistically significant. Figure 1 demonstrates the profile of victim and non victim ratings for the appropriateness of imprisonment for the four case vignettes. Again, there was a significant effect for case vignette ($F(3,324)=18.90, p<.001$) with imprisonment being judged as most appropriate for the female and male child assault cases, followed by opportunity rape and blitz rape. The same profile of results was found for community service and probation.

When looking at financial compensation by victim status, a 2 (victim status) by 4 (case vignette) repeated measure analysis of variance found yet again a significant main effect for case vignette ($F(3,315)=5.9661, p<.001$). In this case, it was perceived that the victims in the case of Female CSA and the Opportunity Rape would benefit more from pecuniary compensation than the victims in the case of Male CSA and Blitz rape. In addition there was no significant main effect for victim status, ($F(2,105)=.28, ns$) and no significant interaction between victim status and case vignette ($F(3,315)=.89, ns$). On average, the mean degree of appropriateness of the financial compensation for each case vignette was above 3.

The means and standard deviations for the degree of assistance an apology from the offender would be for the victim is displayed in Table 3. While there was no significant interaction between victim status of the rater and case vignette and no main effect of whether the rater had a history of

sexual assault, there was a significant main effect for case vignette. It was rated that the victim in the case of Blitz Rape would most benefit from an apology by the offender, followed by the case of Opportunity Rape, Female CSA and lastly Male CSA.

Treatment Options For Offender

Exploratory analyses were conducted in order to observe whether mean responses varied on degree of appropriateness for the given treatment options across case vignettes. Paired-samples t-tests were conducted to evaluate each case. Means and standard deviations for degree of appropriateness of each treatment option, by case vignette, are displayed in Table 4. The analysis revealed a significant difference in degree of appropriateness of treatment options for the female and male child assault cases and the 'blitz' rape case. The child sexual assault cases appear to engender a preference for treatment options which do not include focusing on the quality of life of the offender, yet participants rated treatment that focused on offence specific treatment and quality of life as more preferable for the case of blitz rape. However, in all cases the effect size of the differences were only small to moderate.

Discussion

This research sought to examine the opinions of the general public, with specific reference to victims of sexual assault, on the punishment and treatment options for sexual offenders. Based on the current findings of this investigation, overall homogeneity in participants' responses were evident in regards to appropriateness of penalty options. Contrary to expectations, victim status did not influence respondents' likelihood of endorsing either the restorative or retributive models of justice. Quantifying participants according to socio-demographic variables, such as gender and education level did not prove to be predictive of a respondent's reaction to the given sexual assault case vignettes. Participants overall viewed treatment options as equally appropriate, with any form of rehabilitation being generally supported. Average and modal number of years given as suggested prison terms for the offenders were extremely close (if not the same) as that actually given by the judges in the case.

Findings from this study suggest that participants' ratings of appropriateness of community service, probation and imprisonment were not influenced by their victim status. These findings are partially inconsistent with those of Parfitt (1996), Ray (1982), Eastal (1992) and Berk and Rossi (1995), who found that public opinion on sentencing generally endorsed the retributive model of justice; with public respondents often nominating the harsher penalty option when selecting appropriate sentences. However, previous research did not categorise respondents into victim and non-victim groupings. With this in mind, the current study remains consistent with these authors' findings in revealing that, overall, regardless of a respondent's victim status, the harshest penalty option of imprisonment was deemed more appropriate than any other option. On a case by case basis, female child assault and male child assault were deemed as being more appropriate for the penalty option of imprisonment compared to the other offences. Conversely the penalty options of probation and community service were generally deemed more appropriate for the case of opportunity rape, although average responses still remained within the inappropriate to unsure range.

These findings should be treated with some caution as all four cases varied from one another not only in regards to victim demographics, but also in regards to other factors which may have influenced respondents' views on sentencing. These factors include offender's background, number of counts of abuse, offender motivation, etc. Future research may keep these factors similar across vignettes while assessing the circumstances of the sexual assault. In this first study we wished to look at real cases and compare the public's responses to the sentences given by the presiding judge in the case.

Compared with the actual sentences handed down by the presiding judge in each case, and unlike the findings of Parfitt (1996), Ray (1982), and Berk and Rossi (1995), average specified terms of imprisonment were generally in consensus. The results revealed that respondents, on average, did not nominate harsher sentences than those handed down in the law courts. When disparity did occur, as in the male child assault case, respondents actually recommended a lighter prison term than that issued by the judge. However, the average specified term of imprisonment was

within 1.5 standard deviations of the actual sentence. Consistent with the sentencing judge's ruling, it should be noted that this offender was recommended the harshest imprisonment term of all vignettes in the study.

These results fly in the face of the notion that judges are 'soft on crime'. Such public assessments may be a result of the media inaccurately reporting a minority of case sentencing decisions as being representative of all cases. The press has been found to over-report on offences where sentences are deemed inadequate, believing that they are acting in the public interest (Roberts & Doob, 1990; Goldney, 1998). Due to such filtering of crime news it is believed that many members of the community hold misperceptions relating to crime rates, victim treatment, leniency of sentencing, and figures relating to offender release (Centre for Sex Offender Management, 2000).

Victim status did not influence the degree to which financial compensation was deemed appropriate. Additionally, unlike penalty options, the sexual assault case vignettes did not appear to influence the degree of appropriateness of financial compensation. Such findings are inconsistent with those of Zehr (1990) and Strang (2002) who reported that material restoration direct from the offender was deemed more appropriate by victims of crime. However, the results did suggest that, regardless of victim status, financial compensation was on average deemed somewhat appropriate by respondents for all case vignettes.

In relation to an apology from the offender, victim status did not appear to influence the degree to which an apology was deemed to be of assistance. In line with financial compensation, the degree to which an apology would assist the victim was not influenced by the sexual assault case vignette. These results are inconsistent with those of Strang (2002), who reported that victims themselves desired a justice system which not only provides material restoration, but also emotional restoration in the form of an apology. However, the results of this investigation did reveal that an apology from the offender was generally viewed by respondents, regardless of their victim status, as being slightly assistive.

The socio-demographic variable of gender was found to be irrelevant in the determination of respondents' rating of appropriateness for community service, probation or imprisonment. This finding is inconsistent with those of Parfitt (1996) and Easteal (1992), who found that women tended to impose harsher sentences for rape than men. Conversely Walker, Collins and Wilson (1998), found that while men were generally more punitive in most serious cases, women were more punitive in regards to cases involving environmental pollution and child abuse. Likewise Forsterlee, Fox, Forsterlee and Ho (2004), found that gender influenced decision making in a murder trial, with females more likely to find male defendants guilty and impose harsher sentences.

The current study's inconsistencies with previous research may be due to the brevity of information in the sexual assault case vignettes. Respondents were generally not supplied with information regarding offenders' backgrounds or criminal histories. Forsterlee, Fox, Forsterlee and Ho (2004), found in their investigation that gender differences in decision making were most evident when respondents were provided with information relating to the offender. Such information was found to influence female participants' responses, with females recording more sympathetic reactions, thereby imposing lighter sentences.

Neither the degree of appropriateness of community service, probation or imprisonment was found to be influenced by the respondents' level of schooling. These findings were inconsistent with those of Walker, Collins and Wilson (1998), who found that individuals with more formal education advocated more lenient sentences than their less educated peers.

Exploratory analysis examining respondents' opinions on the appropriateness of treatment programmes for sexual offenders for each case vignette revealed that neither treatment programme was viewed as being more appropriate than the other. Overall, treatment of the offender was deemed relatively appropriate regardless of case condition. However in regards to the male and female child assault a treatment programme specific to criminogenic needs was deemed slightly more appropriate than a programme addressing both criminogenic needs and quality of life.

Nevertheless, the difference in respondent's opinions on these two treatment programmes was quite small.

Limitations of this research relate to: the sample size (although small, this is larger than many past research studies); amount, detail and colouring of information given regarding the cases (a necessary restriction from an ethical and practical perspective); and disparity of offender specifics in the cases, as addressed above. Strengths include that the study used real cases that had been tried by judges, utilised a reasonably representative sample, and polled both victims and non-victims.

In summary, the current investigation has shown that, regardless of an individual's socio-demography (in particular gender and educational level) or victim status, there is a fair degree of homogeneity in community opinions relating to the punishment and treatment of sexual offenders. This was particularly demonstrated in regards to the penalty option of imprisonment which was deemed the most appropriate punishment for all sexual assault case vignettes. Community service and probation were deemed as generally inappropriate. Consensus in public opinion was further identified in regards to financial compensation, with all sexual assault victims deemed as requiring some form of monetary restitution. Conversely emotional restitution by way of an apology was generally viewed as being of little assistance. Unique to this research, we also looked at consistency of public opinion with judges sentences. Without knowing the sentence given by the judge, the mean and modal responses were either exactly the same or exceptionally close to the judges' actual sentences.

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Table 1.

Participant Demographic Information, By Sexual Assault Experience And In Comparison To Victorian Data.

<i>Variable</i>	<i>Sexual Assault Experience</i>			<i>Sample Comparison</i>	
	<i>Was Victim</i>	<i>Known Victim</i>	<i>Known Accused</i>	<i>Current Sample</i>	<i>Victorian Population</i>
<i>Gender</i>					
Male	5	20	13	41.7 %	49.5 %
Female	15	40	20	58.3 %	50.5 %
<i>Age In Years</i>					
< 20 years	1	6	2	6.1 %	6.7%
20 – 24	3	7	1	16.5 %	6.9%
25 – 29	1	10	6	13.9 %	7.3%
30 – 34	4	7	2	13.0 %	7.9%
35 – 39	4	6	3	7.0 %	7.6%
40 – 44	1	9	9	12.2 %	7.9 %
45 – 49	2	5	3	7.8 %	7.4 %
50 – 54	2	2	2	7.0 %	6.9%
55 – 59	1	5	3	9.6 %	6.3%
60 - 74	1	3	2	7.0 %	7.0%
<i>Highest Ed. level</i>					
University level	8	30	19	65.2%	18.0 %
Any tertiary	5	15	4	12.2 %	27.0 %
Completed high school	3	7	4	13.9 %	12.0%
Some high school	4	3	6	8.7%	43.0 %
<i>Cultural Group</i>					
Australian	17	51	28	81.8 %	71.1%
Indigenous	0	1	0	.87%	.6%
European	0	1	1	4.4 %	12.9 %
Asian	0	0	0	4.4 %	5.96 %
African	0	0	0	.87 %	2.07 %
Americas	0	1	1	.87 %	.77 %
Other / not stated	3	6	3	7.0 %	6.6 %

Note: Total N = 115. No respondent was recorded as having an educational level less than “some high school”. Only 1 participant nominated “I do not wish to answer this question” when responding to the question “Have you ever been accused of a sexual offence?” All other participants responded “No” to this question. Therefore, this category is not displayed in Table 1. Cultural Group figures were compared with the ABS labour force statistics by birthplace, except for the Indigenous statistic which was as a percentage of residence (2001). Highest education level was compared with the ABS country comparative statistics for Australia (Abbasi, 2000).

Table 2

Mean, Standard Deviations and Modes of Years Specified for Sexual Assault Cases Vignettes,
Where Imprisonment was Deemed Appropriate.

Case Vignette	Years Specified for Imprisonment				<i>Judges' Sentence</i>
	<i>M</i>	<i>SD</i>	<i>Mode</i>	<i>n</i>	
Female Child Assault	14.0	6.8	10	91	14
'Blitz' Rape	6.7	3.1	5	75	7
Opportunity Rape	6.3	3.2	5	66	6
Male Child Assault	16.5	6.5	20	94	25

Table 3

Means and Standard Deviations Pertaining to Degree an Apology from Offender Would Assist, for Each Sexual Assault Case Vignette, by Victim Status.

Case Vignette	Yes n = 20		Victim Status No n = 90		Total	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Female Child Assault	2.50	1.24	2.79	1.46	2.72	1.42
‘Blitz’ Rape	3.05	1.47	3.17	1.24	3.14	1.28
Opportunity Rape	2.54	1.32	2.99	1.39	2.93	1.38
Male Child Assault	2.38	1.50	2.54	1.45	2.55	1.44

Table 4

Means and Standard Deviations Pertaining to Degree of Appropriateness of Treatment Options Across Case Vignettes.

Case Vignette	Treatment Programme				Effect Size
	Treatment Specific to Offence		Treatment Specific to Offence & Quality of Life		
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	
Female Child Assault **	4.04	1.08	3.74	1.28	0.24
‘Blitz’ Rape*	4.00	.95	4.22	0.98	0.23
Opportunity Rape	3.84	1.04	3.69	1.20	0.14
Male Child Assault **	3.88	1.30	3.34	1.45	0.39

Note: N = 115; * $p < .05$; ** $p < .01$; Effect Size = d computed for repeated measures analysis (Devilly, 2007).

Figure 1. Mean Degree of Appropriateness of Imprisonment for Sexual Assault Case Vignettes, by Victim Status

Appendix A

Female Child Sexual Assault

Jane Smith was indecently assaulted and vaginally raped by her father when she was 9-years-old. Jane reported that her father entered her room while she was sleeping. Jane reported that she was petrified during the assault. She asked her father to stop, because he was hurting her. After the assault her father advised her not to tell anyone as he would get into trouble and lose his wife and children. He told Jane he loved her more than her mother and didn't mean to hurt her. One week later Jane's father assaulted her again in a similar manner. Once again he told Jane not to tell anyone. Jane was continually abused over a period of time. Later it was revealed her father also assaulted and raped her sister.

'Blitz' Rape

Debra Nickels was walking down the driveway of a block of units, where she lived, when the offender approached her from behind. He placed a hand across her mouth and a knife against her throat. The offender advised Debra not to make a sound or he would cut her. Debra was then pushed up against a fence, where the offender made demands for money. The offender then stuffed a sock in her mouth and proceeded to fondle and attempted to rape her. The offender failed in his attempts and stated that he was not going to rape her, as he had had too much to drink. The offender pulled the gag out of her mouth, telling Debra not to move and walked back down the driveway to the street. Debra did not move for a moment afterwards, then went inside her unit and called the police.

Opportunity Rape

Sarah Thompson attended a friend's 21st Birthday party at a bar in the city. Sarah had consumed a large amount of alcohol prior to and at the party. Following the party Sarah went with two friends to another bar, where she began to feel unwell and went to the toilets. Her friends did not see her again that night. Sarah did not remember much about that night. Bank records showed that she had withdrawn \$40 from her bank account that night. Sarah remembers waking up in a strange bed with vomit on her sleeve. She did not know where she was and felt dazed and confused. As she regained consciousness, Sarah remembered feeling something between her legs and found her pants around her knees. As she became more aware she was shocked to find herself in a strange bed with a stranger. Sarah believed that she had been raped. She quickly dressed and asked the man to drive her home. Sarah did not realise until she got into the man's car that he was a taxi driver. On the journey home the offender was said to have remarked that he had had consensual sexual intercourse with her. The offender denied all accounts of the event later to police, however, was found guilty of sexual assault based on additional evidence.

Male Child Sexual Assault

Matthew Taylor was an 8 year old boy who attended “Nippers” (surf lifesaving training) at a beach in an Adelaide suburb. The offender was a coach of the “Nippers” and also a magistrate at the time of the offence. During training or on group outings, Matthew was often fondled and instructed to fondle his coach. On one occasion Matthew was attending training at the surf lifesaving club when his coach suggested that they both have a shower after training before driving the boy home. The coach and Matthew had a shower, and while doing so his coach fondled and anally raped him. The coach was found guilty of this offence and 14 other counts of sexual assault against boys aged between 8 – 9 years during a three year period.