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TITLE PAGE

Factors Influencing Public Perceptions of Sentencing in
Regional North Queensland and How These
Perceptions Compare to the Current Legal Guidelines.

Thesis Submitted by

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In December 2006

For the degree of Doctor of Forensic Psychology

In the School of Psychology

James Cook University

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STATEMENT OF CONTRIBUTION OF OTHERS

Primary Supervisor Professor Edward Helmes and secondary supervisor Stephen Moston provided supervision for this research from James Cook University Townsville.

Supervision included research design, statistical analysis, editorial recommendations and general research assistance. I would also like to acknowledge the support of Roger Wilkinson lecture at James Cook University Cairns who provided recommendations regarding research design and support with data gathering.

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Abstract

The current study utilised a within groups design to explore whether a disparity exists between society's beliefs about sentencing and the guidelines that are present within our legal system and whether specific extra-legal variables relating to participants and the victim within a crime scenario significantly influence the sentencing process. Participant characteristics were explored in order to determine whether the age, gender, victim history and beliefs (locus of control beliefs (LOCB) and just world beliefs (JWB) have the potential to significantly impact upon the sentencing recommendations that individuals feel are appropriate for offenders. Sentencing recommendations made by participants were also compared to the sentencing guidelines within the Queensland legal system. Finally the project aimed to determine whether providing victim information within a specific crime scenario would significantly impact on the sentencing recommendations of participants.

The current research utilised the offence of manslaughter as the crime of interest because previous research has identified this crime as being of sufficient severity to elicit variability within sentencing recommendations (Rachlinski & Jourden, 2003). The manslaughter offence was presented within a scenario as a component of a questionnaire. Within the questionnaire participants were also required to provide demographic information and complete two self-report assessments Rubin and Peplau's (1975) Just World Belief Scale and Rotter's (1966) Locus of Control Scale.

The research findings revealed that participants sentenced differently across the crime definitions, and their recommended sentence lengths were significantly longer than those currently utilised within the Queensland legal system. The results also revealed that contrary to the research hypothesis participant characteristics including age, gender, victim history and beliefs did not significantly impact on sentencing recommendations. It was further hypothesis that victim characteristics would have a significant impact on sentencing recommendations however the results failed to achieve significance. Finally the results found that sentence lengths recommended did not significantly vary from the crime definition to the crime scenario as predicted.

This project explores the discrepancy between public opinion and legal guidelines with regard to sentencing, with the results indicating that the public may not be as influenced by extra-legal variables as often suggested. The findings from this study will hopefully contribute to discussion and decisions regarding the role of jurors in the sentencing process with the overall aim being to improving sentencing consistency within the courts.

In order to analyse the data collected the following analysis were completed. The analysis included paired t-tests to compare sentencing recommendations across the ten crime definitions, a MANCOVA analysis to asses whether the sentences recommended significantly differed across the ten crime definitions with regard to the extra-legal variables, ten one-sample t-tests were conducted to compare the average sentencing recommendations of participants to the courts average sentences. A 5 x 2 ANCOVA was completed to analysis the interaction between sentence lengths recommended and

participant and victim variables, and finally three t-tests were completed to determine whether there was a significant difference in sentencing recommendations for the crime definition as compared to the crime scenarios, and to determine whether there was any significant differences in sentencing recommendations for the crime scenario in relation to participant gender and participant victim history.

Chapter 1: - Literature Review

Introduction

‘Throughout history members of society have committed acts that violate the social code, and society’s dilemma has been the question of how to deal with these crimes.’ (Kirchmeier, 2005: 1)

The Australian penal system has evolved into its current form over time through generations of changing beliefs about crime and punishment. This system is based on the concepts that people must be held accountable for their actions, and that the guilty are punished for their crimes (Kirchmeier, 2005). The Australian legal system is constructed on four basic premises: 1) That justice should be blind with all people being treated as equals in the eyes of the law, 2) That the guilty are appropriately punished for their crimes, 3) That there should be a balance between right and wrong while acknowledging a grey area that understands that guilt and innocence are not always clearly identifiable, and 4) That the laws of the land should be consistently enforced to protect both the innocent and the rights of defendants to a fair determination of their guilt or innocence (Hughes, Leanne, & Clarke, 2000). It is the final premise that continues to spark considerable debate. Is the legal system fair and impartial or is there truth in the suggestion that inappropriate sentencing variability is one of many unfortunate realities?

Research has identified some limitations that occur within current legal practices. Some of these limitations include justice often failing to be blind to the differences in defendants, the guilty eluding capture, and if caught, often escaping unpunished, that innocent people are sometimes punished for crimes they have not committed, and that the punishments bestowed upon the guilty are frequently inconsistent (Wrightsmen, Greene, Nietzel, & Fortune, 2002). One of the reasons for these limitations is the effect of bias. Bias within the legal process has reportedly begun to affect outcomes and erode public confidence in sentencing decisions (Wrightsmen et al. 2002; New South Wales Law Reform Commission (NSW LRC), 2006).

In New South Wales (NSW) legal representatives are considering whether juries should be involved in, or responsible for, the determination of sentence lengths (NSW LRC, 2006). This significant change has been proposed in a bid to restore public confidence in sentencing after complaints about lenient sentences (NSW LRC, 2006). The notion of juries being involved in the allocation of sentence length has been met with some concerns including the lack of legal knowledge and understanding possessed by jurors, the increased potential for sentencing appeals and concerns that juror decisions may result in sentencing disparities (the principle of sentencing similar defendants in a dissimilar fashion) (Sith & Cabranes, 1998; NSW LRC, 2006). Lack of juror legal understanding and sentencing disparity are only two of many difficulties that could present should this significant change in the legal process reach implementation stage (NSW LRC, 2006).

In the United States of America (USA) research on death penalty juries has demonstrated that when juries are given this difficult decision, defendants are not always viewed as equal (Turner, 1996; Turow, 2003; Colfax, 2003). One of the consequences of this inequality is sentencing disparity (Wrightsmann et al. 2002). Sentencing disparity although appropriate when resulting from the impact of criminal history or severity of offence, cannot be seen as suitable when it results from factors such as a defendants or victims gender or age. The current research was not initially prompted by this recent proposal to assign juries the responsibility for sentencing decisions, however this situation has reinforced the need for systematic study into the area of sentencing disparity and the impact of extra legal variables upon public views.

Concern about sentence length disparity has also been raised in response to the inclusion of victim impact statements (VIS), which describe the effects the crime had on the victim or victim's family within the legal process (Abramovsky, 1992). It has been suggested that VIS should be provided to judges within the sentencing stage of the legal process in order to highlight the short and long term physical, emotional and in some cases financial impact the offence has had on the victim or their family (Sentencing in Queensland Criminal Courts, 1997-1998). It has been suggested that the sentences allocated should be more reflective of the impact the crime had on the victim or the families of victims involved (Ogilvie, Lynch, & Bell, 2000). The introduction of VIS has re-ignited a long-standing debate regarding whether extra-legal factors specifically victim related information should be considered when sentencing offenders.

It is evident from previous research that often extra-legal variables inadvertently enter into the legal process and often result in unfair treatment of offenders in the form of sentencing disparities (Glaeser & Sacerdote, 2000; Turner, 1996; Turow, 2003; Colfax, 2003; Bergeron & McKelvie, 2004; Schneider, 2004; Larson, 2004; Khan, 2002; Wenner & Cusimano, 2000). Research has identified a number of extra-legal variables that have been linked to sentencing disparities including defendant and victim attractiveness, socio-economic status (SES), age, gender and race (Nagel & Weitzman, 1972; Ferraro, 1997; Turow, 2003; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Turner, 1996; Mazzella & Feingold, 1994; Bergeron & McKelvie, 2004; Champion, 1987; Abwender & Hough, 2001). It is important to note that victim age is not always an extra-legal variable but can be a legitimate component of the offence as is the case when looking at juvenile offending (Ogilvie, Lynch, & Bell, 2000). In addition to the victim and defendant variables research has also identified that characteristics relating to jurors have a significant impact on the sentences recommended for offenders (Dillehay, 1999; Narby, Cutler, & Moran, 1993; Bray, Struckman-Johnson, Osborne, MacFarlane, & Scott, 1978; Phares & Wilson, 1972).

The introduction of VIS coupled with the proposed shift towards increased juror decision-making power, potentially opens the door for additional extra-legal variables to influence an already complex sentencing process. Before any of these changes are initiated researchers need to determine their potential impact on sentencing fairness. The general debate regarding extra-legal variables has two sides: those who are in favour of mandatory sentencing and those who support discretion within the sentencing process

(Roche, 1999; Braithwaite & Pettit, 1993; Australian Law Reform Commission (ALRC), 1997; Cowdery, 1999). This debate questions whether criminal offences should all carry a mandatory sentence ensuring that all offenders are treated equally, or whether discretion is required in each case, thus allowing consideration of both legal and in some cases extra-legal factors (Roche, 1999; Braithwaite & Pettit, 1993; ALRC, 1997; Cowdery, 1999).

This debate raises questions regarding what legal and extra-legal factors are appropriate to consider when sentencing an offender. It appears irrelevant that a defendant's race or attractiveness or alternatively the race or attractiveness of their victim should have any bearing on the sentencing process as all people should be considered equal under the eyes of the law and yet research has clearly demonstrated that these very factors can have a significant influence on the sentencing process (Glaeser & Sacerdote, 2000; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Mazzella & Feingold, 1994; Turner, 1996; Wuensch, Campbell, Kesler, & Moore, 2002; Abwender & Hough, 2001; Wuensch & Moore, 2004). Research and legal debate continue to strive to answer the question as to where an appropriate level of discretion ends and prejudice begins.

The current research study seeks to explore whether characteristics related to victims and participants including their age, and gender as well as other additional variables have an impact on sentencing recommendations. The analysis included identification of potential extra-legal variables that may impact upon social views of punishments. Continued clarification is required regarding identification of which victim characteristics influence

beliefs related to punishments and, more specifically, to sentencing recommendations, while continuing to explore what participant factors (individual characteristics) may also have an impact on sentencing recommendations. The identification and clarification of the impact of victim and participant information on sentencing recommendations has never been more necessary with the current debates regarding the use of VIS and the proposal to involve juries in the sentencing process (NSW LRC, 2006; Sentencing in Queensland Criminal Courts, 1997-1998; Ogilvie et al. 2000).

The current research study has sought to explore some of these issues in greater depth, by looking at some of the extra-legal factors that may be present within society and that potentially affect the sentencing process. In addition, it explores what people perceive as being an appropriate punishment for an offence and whether social views of punishment are consistent with those handed down by our judges. A number of areas must be considered when exploring this topic. However, it must also be acknowledged that it would be impossible to address all of the cultural, personal, social, economic and decision-making interactions that may be occurring when a sentence is being determined. The current research area has therefore been guided by previous research to focus on examining the main issues of whether participants' sentencing recommendations were consistent with our legal guidelines, whether victim characteristics (age and gender) or participant characteristics (age, gender, victim history) have a significant impact on sentencing recommendations and also to explore whether a participants just world beliefs (JWB) and locus of control beliefs (LOCB) provide any explanation as to why these sentencing disparities may be occurring.

It is important to note at this stage that sentencing recommendations and perceptions may also be affected by the severity of the crime being examined. Previous research has explored crime severity and sentencing, and has revealed that there is a significant difference in sentencing with regard to the type of crime being examined (Bergeron & McKelvie, 2004). Due to these findings, the current study will include a section that compares participant sentencing recommendations for multiple crimes (based on definitions) as well as specifically considering the crime of manslaughter within a crime vignette, as utilised in previous research (Bergeron & McKelvie, 2004).

Rationale for the Current Research

With the continued rise in the number of offenders being imprisoned (Australian Bureau of Statistics, 2005), it is important to explore the factors that relate to the sentencing of these offenders. Although sentencing in Australian courts is at the discretion of the presiding judge, it is valuable to conduct research that explores whether the general population holds views on sentencing that are consistent with the legal system. Public views on sentencing provide us with an indication of how society perceives both the severity of offences and appropriateness of existing punishments (Indermaur, & Hough, 2002; Blumenthal, 2007; Walker & Hough, 1988; Walker, Collins & Wilson, 1987). This research also comes at a time when NSW is examining a proposal to involve juries in the sentencing process highlighting further the need to clarify extra-legal variables that may impact upon this difficult decision (NSW LRC, 2006).

Sentencing in Australian courts has many aims including acting as a general deterrent, an individual deterrent, providing the incapacitation of offenders, providing a method for retribution and restitution, enabling a means of catharsis for moral outrage, and as a means for placing offenders in an institution aimed towards rehabilitation (Wrightsmann et al. 2002). These sentencing aims highlight the complexity of the sentencing process. However the difficulties are compounded by the role played by the individuals involved within this decision-making process. Those individuals (judges and jurors) are charged with making a fundamental decision that significantly impacts upon a person's fate. It is vital that the decision about what sentence is appropriate is viewed as fair, not only in the eyes of the victims, their families and the community, but also in the view of the defendant (Davies & Cox, 1995).

If the legal system is viewed as unfair it will cease to full fill one of its key roles within the social and legal system to identify and implement appropriate punishments for offenders who fail to conform to the laws of the society. Indermaur and Hough (2002) stated that the rule of law requires public consent for its effective operation because without widespread belief in the fairness and effectiveness of the legal system it would eventually cease to function. It is important to understand the sentencing process and its aims in order to explore the impact of extra-legal variables. The goals associated with sentencing will be the topic of further discussion in the following sections.

The current study sought to determine whether providing minimal information about a victim of a crime influenced the sentence that participants' deem appropriate. Participant views on sentencing provide guiding information about how the Australian population will respond to judges' sentencing recommendations and how the NSW proposal for the public to hold a more influential role in the sentencing process may be affected by these factors (NSW LRC, 2006). If there is a considerable and consistent contrast between the sentences allowed within the legal system and the public's perception of appropriate punishment for offenders, then research of this nature may contribute in a meaningful way to legislative change and may provide guiding information about the potential ramifications of the proposed NSW changes regarding the jurors role in sentencing (NSW LRC, 2006).

It is important to note that research relating to sentencing may further result in social education with regard to the limits within which judges are required to function. One goal of the current research is to compare the sentencing recommendations of the participants to the sentences handed down within the Courts of Queensland. Currently in Queensland judges have the independent role of determining the appropriate sentence for an offender however, the proposal in NSW to develop a sentencing system in which judges consult with juries about sentencing would be a novel change to established practices (Johns, 2006; NSW LRC, 2006). This proposed change could have an impact on sentencing outcomes if juror recommendations are unknowingly and unintentionally influenced by extra-legal variables that judges have been trained to ignore (Johns, 2006).

Therefore the current study seeks to examine more closely the potential impact of some extra-legal variables on sentencing recommendations.

The main aim of the current study is to clarify whether an individual's determination of an appropriate sentence is affected by the characteristics of the victim and/or characteristics within themselves. Two main factors are central to the ongoing debate: the use of VIS (victim impact statements) within the sentencing process and the extent to which extraneous variables impact upon determinations of guilt or innocence and also on sentencing (Sentencing in Queensland Criminal Courts, 1997-1998; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Mazzella & Feingold, 1994; Turner, 1996; Wuensch et al. 2002; Abwender & Hough, 2001; Wuensch & Moore, 2004; Glaeser & Sacerdote, 2000). Research in the area of victim characteristics and the impact on sentencing may help to determine whether there is a different reaction by the public to crimes involving children, the elderly and women and whether this identified reaction is reflective of people seeking harsher punishments for offences against vulnerable groups or whether it is related to perceptions of the victim and assumptions regarding the cause(s) for the event.

Summary of Previous Research Utilised Within Project Design

Previous research has explored the impact of defendant and victim characteristics on the sentencing process and has demonstrated that a number of factors related to defendants and victims influence sentencing outcomes (Glaeser & Sacerdote, 2000; Turner, 1996;

Turow, 2003; Colfax, 2003; Bergeron & McKelvie, 2004). Glaeser and Sacerdote (2000) found when reviewing statistics from the American Bureau of Justice that victim characteristics are an important determinant within the sentencing process even when the victim is basically random such as in vehicular homicides. According to their evaluation of the national data set victim race, age and criminal record were key determinants in sentence length even when the victim was random (Glaeser & Sacerdote, 2000). They specifically found that when the victim was a woman the sentences applied were 56 percent longer and when the victim was 'African American' the sentence were 53 percent shorter (Glaeser & Sacerdote, 2000).

Turner (1996) also found that in America, defendants found guilty of killing victims of Anglo-Saxon background received the death penalty in 11 % of cases, whereas defendants found guilty of killing an African American victim received the death penalty in only 1% of cases. Turow (2003) found that in America if a defendant is convicted of the murder of an Anglo-Saxon victim the crime is three and a half times more likely to be punished by death when compared to a defendant who has murdered an African American victim. Colfax's (2003) research was consistent with that of Turner (1996) and Turow (2003) in demonstrating that in cases where victims are Anglo-Saxon, defendants are three and a half times more likely to be sentenced to death than defendants in cases involving a racial minority victim. This research is based on death penalty juries and clearly demonstrates the impact of victim race on sentencing while more generally indicating that extraneous variables can have a significant and biased impact upon sentencing recommendations.

The gender of a victim has also been explored by Turow (2003) who found that capital punishment is imposed three and a half times more often when a victim is female. This finding is consistent with the findings reported by Glaeser and Sacerdote (2000).

Bergeron and McKelvie (2004) extrapolated the 'gender factor' further with their research indicating that a gender bias also occurs in sentencing with regard to the gender of the juror. Gender appears to be an influential variable in sentencing recommendations in the limited research conducted to date with female victims resulting in increased sentence lengths and female defendants often receiving more lenient sentences (Turow, 2003; Bergeron & McKelvie, 2004; Glaeser & Sacerdote, 2000; Nagel & Weitzman, 1972; Ferraro, 1997; Poletti, 2000; Gallagher, 2006; Naylor, 1990).

The age factor has also been the subject of a restricted amount of research (Bergeron & McKelvie, 2004; Champion, 1987; Wilbanks, 1988; Cutshall & Adams, 1983). Bergeron and McKelvie (2004) explored the age of defendants and found that a disparity also exists when judges are sentencing. Their research found that both younger people under the age of 23 years and elderly offenders received more lenient sentences from judges (Bergeron & McKelvie, 2004). The age and gender of victims and jurors does not appear to have been considered consistently or comprehensively within research on sentencing recommendations. Generally it appears that research has identified gender and age as potential extraneous variables with regard to sentencing; however it is apparent that further exploration relating to the age and gender of both victims and jurors (public) is

required to determine whether they are indeed influential factors in the sentencing process.

In addition to the aim of exploring the age and gender of victims and participants, the current research further seeks to explore factors relating to how specific personal beliefs about life and society held by participants may impact upon sentencing recommendations. Specifically the research will look at Locus of Control Beliefs (LOCB) and Just World Beliefs (JWB). Locus of control is a personality construct based on Rotter's (1954) social learning theory and refers to a person's attributional tendency regarding the cause or control of events and to the generalised expectancy that reinforcements are under personal control (Spector, 1982; Phares, 1976). People who are prototypical externals do not perceive a reliable contingency between their behaviours and their outcomes (Rotter, 1966). These individuals generally believe that the rewards and punishments they incur vary with capricious, unstable forces such as luck or with the behaviours of powerful others (Estrada, 2006). People who are prototypical internals perceive a reliable contingency between their behaviours and their outcomes. They believe for the most part that the rewards and punishments they experience vary as a function of their own actions (Estrada, 2006). Thus, people described as having an external locus of control believe to a large extent that fate, luck, other people or social structures determine reinforcements; individuals described as having an internal locus of control believe that effort or ability determines reinforcements (Rotter, 1966; Leftcourt, Miller, Ware, & Sherk, 1981).

With regard to just world beliefs Lerner documented this effect in the 1960s and it has since become a commonplace idea in social psychology (Lerner & Simmons, 1966). Individuals like to believe that we live in a just, fair world and as a result of this belief we feel that we live in a just, fair world (Lerner & Simmons, 1966). To defend this fragile belief, we twist our perceptions of others and reinterpret past events (Lerner & Simmons, 1966). To believe in a fair world, we constantly delude ourselves because examples of injustice parade daily in front of us (Lerner & Simmons, 1966). The just world effect resides in us all, but is reportedly more pronounced in some. A belief in a just world is in essence a belief that the world is a place where good people are rewarded and bad people are punished (Rubin & Peplau, 1975). In reality the world seems far from just with the nightly news revealing countless instances of innocent people suffering, fiendish people revealing and more generally luck and fate playing unfortunate tricks within the lives of ordinary people (Rubin & Peplau, 1975). This belief in a just world is viewed as existing on an attitudinal continuum extending between the two extremes of total acceptance and total rejection of the notion that the world is a just place (Rubin & Peplau, 1975). Rubin and Peplau (1975) devised a scale for measuring this belief and their scale has been incorporated into the current study.

Research has indicated that both LOCB and JWB relate to identification with victims, the level of empathy and responsibility individuals direct towards victims or perpetrators, and further indicated that these beliefs may influence sentencing recommendations (Turner, 1996; Schneider, 2004; Larson, 2004; Khan, 2002; Wenner & Cusimano, 2000). Wenner and Cusimano (2000) have studied the impact of JWB on victim blaming. Their research

indicated that jurors tend to blame a victim in order to avoid thinking that they may suffer a similar fate (Wenner & Cusimano, 2000).

According to just world (JW) theory the concept of an innocent victim is not consistent with a JWB (where people only get what they deserve) and that when individuals with a strong JWB are confronted with an innocent victim they seek to maintain their pre-existing beliefs (Lerner, 1980). One method they are able to utilise to sustain this belief is to derogate the identified victim and blame them for the situation in which they have found themselves (Brogdon, 2003; Sabini, 1995). The JWB concept suggests that if there are no innocent victims then any individual who finds him or herself as a victim must have contributed in some way to their situation. It then follows that if they contributed in some way to their situation they can be assigned a level of blame. JWB can therefore be related to how individuals view a victim and the level of blame they attribute to them (Brogdon, 2003; Sabini, 1995).

The level of blame attributed is also said to be associated with an individuals' LOCB and whether they are more or less likely to blame internal or external causes for the situation (Pervin & John, 1997). It was expected that this research would meaningfully contribute to the field of study related to sentencing by expanding upon the present research, by exploring social views of sentencing and specifically victim and participant characteristics and their impact upon sentencing recommendations.

The Legal System

The Australian legal system may be regarded as being based on two fundamental goals, to enforce the law while maintaining social order and to protect people from injustice (Bohm & Hayley, 2002). These primary goals have been codified in the form of two legal theoretical models, the crime control model and the due process model (Perron, 2006). The crime control model was developed by Herbert Packer in the 1960s and places an emphasis upon the aggressive arrest, prosecution, and conviction of criminals (Perron, 2006). The due process model focuses on the protection of the rights of the innocent, arguing that this is as important if not more important than the apprehension and prosecution of offenders (Packer, 1968).

When reviewing these two core legal models it is evident that each represents one extreme on the continuum of justice. Research indicates that legal representatives do not appear to argue strongly for one model over another but rather attempt to use the principles from both models to create a legal system that protects the rights of all while also being efficient and reliable (Packer, 1968). The crime control model is argued to be too harsh while also verging upon creating a police state, while the due process model is criticised for being overly protective of the guilty at the expense of innocent law abiding citizens (Packer, 1968). These models have been discussed in order to provide a basic understanding of the legal models that underpin our current criminal justice system. It is

impossible to effectively explore potential limitations within the system without understanding the principles that underlie it.

Theories of Criminal Behaviour

“Theories of crime are as old as crime itself” (Wrightsmann et al. 2002). There are competing views regarding the causes for criminal or delinquent behaviours creating a challenge with regard to formulating a single reason for its presence within society (Kirchmeier, 2005). The research aims of this paper do not involve challenging criminal theory, however it is important to have a basic understanding of the psychological, sociological and criminological theories of criminal behaviour, in order to more fully understand the differing perspectives available within society that influence the way we each view criminal behaviour and the appropriateness of punishments.

Criminology Schools

There are three main schools of thought within the field of criminology, the classical, positivist and chicago schools (Davies & Cox, 1995). This section provides a basic overview of these schools and their historical base. The classic theories of criminology hold, that criminal behaviour is a reflection of misguided choice (Davies & Cox, 1995; Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985). People make pro-crime decisions when they believe that the gains from criminal behaviour outweigh the potential consequences (Wrightsmann et al. 2002; Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985).

The positivist theorists understand crime through scientific analysis of sociological, biological, psychological and environmental factors (Davies & Cox, 1995; Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985). Positivist theory argues that criminal behaviour is significantly affected by specific social and environmental conditions, and that people are responsible for their own behaviours (Davies & Cox, 1995; Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985). The Chicago school purports that crime and delinquency are caused primarily by social factors and that human nature is basically good but subject to vulnerability and inability to resist temptation (Davies & Cox, 1995; Harris, 1980; Faris, 1967). An overview of these schools and how they explain criminal behaviour has been provided in Table 1 (Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985), to assist with understanding.

Table 1

Overview of Criminology Schools

School	Main Theory Information
Classical School (Theories of Human Nature)	<ul style="list-style-type: none"> • Criminal Behaviour is viewed as resulting from misguided choices • Emphasis is placed on the role of free will and human rationality • Pro-crime decisions are believed to result when the potential rewards / gains outweigh the potential costs • Punishment is seen as a deterrent
Positivist School (Theories of Human Nature)	<ul style="list-style-type: none"> • The Positivist school emphasises how factors that they believed determined criminal behaviour are studied and applied. • The scientific nature of criminal behaviour • Examples: - Phrenology, physical characteristics, somatotypes (endomorphs, mesomorphs, ectomorphs), genetics (heredity), intelligence, mental illness, attachment theory, and personality types. • Explores biopsychosocial theories and the evidence they provide to explain criminal behaviour.
Chicago School -	<ul style="list-style-type: none"> • Human behaviour is seen as the result of environmental social structures,

(Ecological School)	physical and environmental factors.
(Sociological Theories: Formative Sociology 1900-1950)	<ul style="list-style-type: none"> • The natural environment, which the community inhabits, is a major factor in shaping human behaviour. • Social disorganisation theory refers to the consequences of the failure of social institutions, organizations and relationships to encourage co-operation between people. • Breakdown of social control mechanisms (family, schools, relationships etc.) • Strain theory – people unable to meet their aspirations by legal means so they turn to illegal methods.

(Coser, 2003; Tierney, 1996; Wilson, 1983; Wilson & Hernstein, 1985)

Table 1 provides an overview of the criminology theories including the main features of each of the theories.

Theories of Crime

This section seeks to review some of the basic theories of criminal behaviour in order to provide some understanding of why crime is present within society and why research within this area is important, while also providing some understanding of why punishment has remained a consistent factor within the justice system. Theories of criminal behaviour fall into a number of areas including sociological theories, biological theories, and psychological theories of crime (Tierney, 1996).

The sociological explanations of crime hold as their key concept the notion that certain groups of people suffer fundamental inequalities in opportunities to achieve the goals valued by society such as wealth, success, education, and the acquisition of material possessions (Cullen & Agnew, 1999; Cloward & Ohlin, 1960). Criminal behaviour is believed to occur when people are unable to achieve these opportunities through legal means so they resort to illegal ones (Cullen & Agnew, 1999; Cloward & Ohlin, 1960). This theory fails to explain why some people who are faced with criminal opportunity or

come from an impoverished background do not participate in offending behaviours (Cullen & Agnew, 1999).

The biological theories of criminal behaviour aim to explore genetic vulnerabilities, physiological excesses, or constitutional deficits that are believed to pre-dispose individuals to committing criminal behaviours (Morley & Hall, 2003). Some examples of these biological theories include those which argue that pre-dispositions or vulnerabilities result in criminal behaviours as a function of these vulnerable individuals being exposed to environmental and social interactions over extended periods (Morley & Hall, 2003).

Another example of a biological area of criminal theory is the genetic theories, in which criminals are thought to suffer from some hereditary trait that either of it self or in combination with some environmental trigger increases a person's risk of anti-social behaviour (Morley & Hall, 2003). Initial research within this area focused on genealogy or the study of families. This method was clearly limited as it is impacted by several extraneous variables including psychological, social and environmental influences (Wrightsmann et al. 2002). A more effective method of studying genetic influences is adoption studies. In one study by Cloninger, Sigvardsson, Bohman and von Knorring (1982), it was found that men whose biological parents had a criminal record were four times more likely to be criminals themselves than those adoptees who had no adoptive or biological criminal background, and twice as likely to be criminal as adoptees whose adoptive parents were criminal but whose biological parents were not. The largest

adoption study of criminality was conducted by Mednick, Gabrielli and Hutchings, (1984a - 1984b), and they found among other things that when the biological parents were chronic offenders they were three times more likely to have sons who were criminal than were biological parents with no convictions. This is clearly not a comprehensive review of biological theories but simply provides examples of some of the research within this area.

The bulk of biologically based research evidence suggests that genetic factors influence criminal behaviour; however, the degree of influence is not yet clear (DiLalla & Gottesman, 1991). The Human Genome Project, which aimed to map the genes of human DNA, presented a new method of researching the impact of genes on criminal behaviour. With this advancement also comes criticism and concern (Wrightsman et al. 2002). Critics question whether researchers should even be asking about genetics and their influence on behaviour (Wrightsman et al. 2002). These concerns could be considered well founded given historical evidence of abuse in relation to genetic findings including sterilization, racial discrimination and genocide (Morley & Hall, 2003).

Another theoretical area is the psychological theories. There are four major psychological theories of criminal behaviour that have within them a number of specific crime theories. The major psychological theories of criminal behaviour include the psychoanalytic theories, developmental theories, learning theories, and control theories (Blackburn, 1993; Feldman, 1993; Hollin, 1989). The psychological theories have been influenced by a number of fields including criminology, sociology and biology (Feldman,

1993; Hollin, 1989). Psychological theories seek to explain criminal behaviour in terms of personality characteristics that are attributable to criminal populations through their history of learning activities and patterns of reinforcement (Toch, 1979; Cole & Cole, 1993; Kohlberg, 1976; Blackburn, 1993; Hollin, 1989).

Psychoanalytic theories of crime are based on Sigmund Freud's (1856-1939) theories that argue that we all have "natural drives and urges that are regressed in the unconscious" (Freud, 1961). More specifically, the theory suggests that we all have criminal tendencies and through the process of socialisation these tendencies are managed by the development of inner controls (Farrington, 1994). Criminal behaviour is suggested to be the result of poor socialization of children that creates personality disturbance and the personality disturbance leads to anti-social impulses that are expressed either inwardly or outwardly (Blackburn, 1993; Clinard & Quinney, 1986). For example, inward expressions of these anti-social impulses include self-harm and outward expressions include criminal behaviours (Freud, 1961).

Psychoanalytic theorists believe that crime results from a weak ego and superego that fail to restrain the antisocial instincts of the id (Hollin, 1989; Feldman, 1993; Freud, 1961; Blackburn, 1993; Rogers, 2001). Other psychoanalytic theorists have suggested that criminal behaviour is a method for obtaining basic needs such as love, nurturing, and attention (Andrews & Bonta, 2003). These psychoanalytic theories are not favoured in modern criminology due to their tendency to get caught in tautological circles (Blackburn, 1993; Hollin, 1989; Feldman, 1993).

With regard to the developmental theories of criminality, there are many varied theories of moral development (Kohlberg, 1976; Piaget, 1932-1965; Gilligan, 1982). They are diverse in scope and perspective, but in all there are commonalities related to the fundamental perspective that morality emerges as a dynamic process that begins with egocentric impulses (actions without thought) and leads to egocentric interpretations ("that's not fair!"). Then comes the avoidance of punishment ("the gorilla did it") which evolves from the child's core belief that "If I don't get caught, I didn't do wrong" (Kohlberg, 1976; Piaget, 1932-1965; Gilligan, 1982). The evolutionary process continues with the development of the ability to measure impulse against the perceptions of others responses or expectations ("Mom will be mad") leading to the establishment of sets of rules. These rules include self and other perspectives ("in that situation I thought it was ok because he didn't get upset last time") (Kohlberg, 1976; Piaget, 1932-1965; Gilligan, 1982). Finally, an overall moral code emerges that allows the child/person to make behavioural choices based on a balanced perception of self and other (Erikson, 1963).

Learning theories argue that criminal behaviours result from a complex process of learning and reinforcement (Jeffery, 1965; Blackburn, 1993; Hollin, 1989; Eysenck, 1964). Social learning theory specifically focuses on behaviour being learned through watching others, while learning theories in general draw upon Eysenck's, Skinner's and Bandura's theories on behaviour, conditioning, modelling, and aggression (Blackburn, 1993; Hollin, 1989; Bandura, 1973; Eysenck, 1964; Eysenck & Gudjonsson, 1989; Sutherland, 1947; Akers, Krohn, Lanz-Kaduce & Radosevich, 1996; Burgers & Akers,

1966). The learning of behaviours is argued to occur within three major contexts: within the family, within a person's subculture and within the broader social environment (Ewen, 1980; Feldman, 1993; Hollin, 1989). With regard to how these behaviours are learnt, control theorists assume people behave in an antisocial manner as a result of failing to learn inner controls and external constraints for behaviour, while learning theorists stress the acquisition of specific criminal behaviours through different forms of learning (Blackburn, 1993; Gattiker & Kelley, 1977; Hollin, 1989; Feldman, 1993; Ewen, 1980; West, 1988; Kohlberg, 1976; Eysenck & Eysenck, 1977).

In criminology, social control theory proposes that, exploiting the process of socialization and social learning builds self-control and reduces the inclination to indulge in behaviour recognised as antisocial (Akers, 1990 - 1991; Evan, Cullen, Burton, Dunaway & Benson, 1997). At the base of control theories is the premise that within each of us is the potential to engage in criminal activity (Blackburn, 1993). The focus within this set of theories is not on why people commit crimes, but rather explores why the majority of the population do not offend (Agnew, 1995; Hollin, 1989; West, 1988).

Conclusions and The Integrated Model

After reviewing these general theories of crime, it is clear that answers regarding the causes of criminal behaviour continue to elude consensus. Wrightsman and colleagues (2002) developed an integrated model of criminal behaviour in response to these difficulties and in an attempt to identify the precipitating and perpetuating factors related

to criminal behaviours (see Appendix J). This model focuses on offending and re-offending and provides an elegant way of reconciling the multiple theories of criminal behaviour. Rather than debating the advantages and disadvantages of each model this model attempts to draw upon the strengths of each theory and combines them in a holistic model (Wrightsman et al. 2002). The integrated model is divided into four sections 1) distal antecedents, 2) early indicators, 3) developmental processes and 4) maintenance variables (Wrightsman et al. 2002). The distal antecedents include biological precursors (genetics, brain injury, etc.) (biological theories), psychological predispositions (reduced IQ and empathy, impulsivity, etc.) (psychological and social theories), and environmental factors (family history, inconsistent discipline, etc.) (learning and control theories) (Wrightsman et al. 2002). It is proposed that a combination of these factors increases the likelihood of an individual engaging in criminal behaviours (Wrightsman et al. 2002).

The early indicators are identified as the next phase in the process of criminal development and suggest that features such as childhood precursors and being subjected to crime and violence as a child contribute to the risk of becoming a future offender (Wrightsman et al. 2002). Examples of early indicators include having a conduct disorder, demonstrating oppositional behaviours and having poor emotional regulation (Wrightsman et al. 2002). The third phase titled developmental processes has two competing components, the intensification of criminal/violent behaviour as compared to the intensification of pro-social/non-violent behaviours (Wrightsman et al. 2002). This stage suggests that factors such as school failure, association with aggressive and deviant peers and substance abuse can contribute to an increase in criminal behaviour, while

factors such as school achievements, occupational success, and positive peers all contribute to the development of pro-social behaviours and a reduction in the likelihood of future offending (Wrightsman et al. 2002). Finally, the maintenance variables include factors that maintain offending such as reinforcement, social labelling, and environmental factors such as a criminal peer group (Wrightsman et al. 2002). The maintenance stage also suggests that the continuation of pro-social behaviours including the development of meaningful relationships can result in reducing or preventing offending (Wrightsman et al. 2002).

A clear implication for this proposed integrated model is that the focus is on ways that crime may be prevented rather than focusing of how to punish people once they have offended (Wrightsman et al. 2002). Society defines what behaviours are unacceptable and states that if these behaviours occur, then an individual must face the consequences that have been previously defined as appropriate (Bartol, 1991, 2002). The consequence related to a criminal act constitutes the final stage in the criminal process (Toch, 1979). Although the causes for criminal behaviour may be difficult to understand and may vary across cultures and theorists, one constant remains in that if you participate in offending behaviour, your social group will apply a consequence for that behaviour that they feel is appropriate given your crime, history and circumstances (Toch, 1979).

Theoretical perspectives on criminal behaviour may influence not only individual sentences, but also the overall punitive system within a culture (Toch, 1979). In relation to the current study the aim is not to understand why people offend but rather to explore

factors that influence public beliefs regarding sentencing. Information regarding the different theories of criminal behaviour has been included to demonstrate the diversity of opinion even amongst academics in order to highlight that within the general public, individuals' understanding regarding of why people partake in criminal behaviour and therefore what punishments are appropriate may generally vary as a function of their beliefs regarding why people offend in the first place.

It is theorised that within the general population as within a jury population, there would be a diverse array of beliefs regarding criminal behaviour and that for the present purposes it is not important to understand how they view the criminal but rather how they view the victim and how they assign punishments.

Sentencing in Australian Courts

The Sentencing Act 1991 accommodates both punitive and rehabilitative objectives within one sentencing structure (Birgden, 2004). While the criminal justice system is mostly aligned with punishment it also incorporates elements of prevention and protection (Birgden, 2004). Miller (2004) states that there is a fine line between treatment and punishment, and that in both the sentencing and rehabilitation of defendants' deprivation of liberty is justified in terms of protection of the community. Consequences for criminal behaviour, whether they take the form of, community service, fines, or imprisonment, are believed to serve several purposes. Seven major goals of our justice system have been identified, 1) General deterrence:- discouraging others from

committing crimes, 2) Individual deterrence:- discouraging the offender from committing further crimes, 3) Incapacitation:- preventing the offender from committing further crimes through imprisonment, 4) Retribution:- providing punishment that reflects the seriousness of the offence, 5) Moral outrage:- showing societies disapproval of the crime, 6) Rehabilitation:- assisting the offender so that he or she won't offend again, and 7) Restitution:- providing compensation to the victim where possible (Robinson, 2001; Paulin, Searle, & Knaggs, 2003). Our legal system is an important part of our social structure and the justice system is our means of communicating that criminal behaviour will not be tolerated (Robinson, 2001).

As stated by Wrightsman and colleagues, (2002)

“The sentencing of a convicted criminal lies at the very centre of society's efforts to ensure public order. Next to the determination of guilt or innocence, the sentencing decision is probably the most important decision made about the criminal defendant in the entire process” (p. 477).

With so much importance being placed on sentencing, the system should operate as intended, with sentences handed down being fair. It could be argued the sentence should 'fit the crime' with a mandatory sentence dependant only upon the type of crime committed, while on the other hand some legislators argue that the sentence should not only fit the crime but the criminal as well (Packer, 1968, Wrightsman et al. 2002). This

issue becomes more complex when we consider that the crime label may be the same across offences but the circumstances of the offence can vary considerably.

A question has been proposed regarding, “what is meant by sentencing fitting the criminal as well as the crime” (Wrightsmen et al. 2002)? Wrightsmen and colleagues (2002) highlight in their book that factors such as a defendant’s criminal history, outcomes of previous sentencing (i.e.: probation), and level of remorse or empathy for the victims of their crimes, may be considered when determining an appropriate sentence. Whether these factors should be considered is an interesting question and one that continues to be debated in the literature. Extraneous variables such as race, gender, physical appearance, socio-economic status of offender and victim, and other victim characteristics have also been identified as factors that influence the sentencing decision (Glaeser & Sacerdote, 2000; Roche, 1999). There is no debate as to whether these factors should be considered; the answer is simply that they should not.

Judges are the gatekeepers of the judicial system. It is usually into their hands that the fate of the defendant falls. Judges are placed in a position of considerable power and responsibility, with their ultimate role being to uphold the values of the society they represent (Roche, 1999). Judges are, however, human and as humans they are susceptible to bias and prejudice. When determining an appropriate punishment, it appears clear that the sentence for an offence should reflect the severity of that offence, but it remains the subject of a long standing debate as to what other factors should be taken into consideration, and what factors are unintentionally considered.

Mandatory Sentencing

The purposeful action of killing another is termed ‘murder’, while a death that results from an accident is termed ‘manslaughter’ (Anderson, 1999). Within different cultures and across time frames these serious offences have carried a diverse range of consequences from the offender losing their own life, to receiving little to no penalty (Anderson, 1999). Within the Australian legal system, murder previously carried a penalty of death but the ‘death penalty’ was abolished in the 1960s, with the last hanging occurring in Victoria with the death of Ronald Ryan in February 1967 (Anderson, 1999). With the abolition of capital punishment came the introduction of the ‘life sentence’, a term of imprisonment in which an offender serves the remainder of their existence in an institution for incarceration (Anderson, 1999). This original concept of life in prison has since evolved into a variable term of incarceration that is dependant upon the state or territory in which the offence occurred (Anderson, 1999).

In the state of Queensland, the law currently states that the punishment for the crime of murder is life in prison (Potas, 1998; Tay, Jonas, & Sidoti, 2000; Roche, 1999; Tonroy, 1996). A ‘life’ sentence in Queensland currently means that a prisoner is not eligible for parole until they have served a minimum period of 15 years in prison (Potas, 1998; Tay et al. 2000; Roche, 1999; Tonroy, 1996). Life imprisonment varies across Australian states and territories from a sentence of undefined length, leaving the release of the offender in the hands of a parole board, to a sentence of a maximum of 15 years without parole (Anderson, 1999; Potas, 1998; Tay et al. 2000; Roche, 1999; Tonroy, 1996).

A life sentence for murder in Queensland differs from the life sentences handed down for other offences in that this sentence is 'mandatory'; while for other offences this sentence is considered a maximum sentence, which is reserved for only the most serious offences within that crime category (Potas, 1998). Mandatory sentencing refers to the practice of parliament setting a fixed penalty for the commission of a criminal offence (Roche, 1999). A mandatory sentence is one that is automatically assigned when an individual is convicted of an offence (Potas, 1998). During the 18th and 19th centuries mandatory sentencing was used for a wide range of offences (Roche, 1999). In the 19th century this approach was largely abandoned in favour of parliament setting only a minimum sentence and judges being allocated the responsibility for determining the specific sentence length (Morgan, 1999).

There has been considerable debate regarding the appropriateness of mandatory sentencing within Australian courts (Potas, 1998). Arguments in support of mandatory sentencing suggest that it helps with crime prevention, provides consistency in sentencing, and that it represents a response to widespread public concern about crime and inconsistent punishments (Roche, 1999; Braithwaite & Pettit, 1993). The opposite side of the argument those who advocate against mandatory sentencing, suggests that this form of sentencing does not allow for individual crime variables to be taken into consideration, that is, it does little by way of preventing crime, results in additional costs within an already expensive legal system, and goes against the principle of proportionality, which requires that the penalty imposed be proportional to the offence

committed (Roche, 1999; Australian Law Reform Commission (ALRC), 1997 - 2006; Cowdery, 1999).

Mandatory sentencing as a method for preventing crime has resulted in contradictory research results. For example research by Tonry (1996) concluded that mandatory penalties prevent little or no crime, while McDowall, Loftin and Wiersema, (1992) found that mandatory sentencing caused a reduction in gun homicides. A further argument relating to crime prevention and mandatory sentencing is that it helps to prevent repeat offending through incarceration (Vitiello, 1997; Sherman, Gottfredson, MacKenzie, Eck, Reuter, & Bushway, 1998; Roche, 1999). This argument is not supported by Tonry (1996), who stated that in cases where the mandatory sentence is imposed after the third offence, the offenders may be at the end of their offending and therefore the longer punishment does not necessarily result in a large reduction in offending. With regard to the argument that mandatory sentencing provides consistency in sentencing, research has indicated that mandatory sentencing regulations are biased against the poor and marginalised groups, as these groups are more likely to offend and re-offend (Roche, 1999; Davis, 2001).

Currently the mandatory sentence for murder remains a significant component of the Australian legal system (Potas, 1998; Roche, 1999). Across Australia until recently murder carried a mandatory life sentence in all states except the Australian Capital Territory. In recent times NSW and Victoria have made amendments to their sentencing guidelines that allow for more discretion to be used by judges (Potas, 1998). With regard

to the targeted crime of manslaughter, 'life' (15 years) is considered the maximum penalty in Queensland courts (Potas, 1998; Roche, 1999). The current study will compare the sentences assigned by participants to this maximum of 15 years to determine whether consistency is found between the sentencing constraints of the courts and social attitudes.

A further concern being expressed with regard to sentencing in Australia is the disparity that exists between public views of appropriate sentences and the sentences allocated within the courts. The current proposal in NSW's to give jurors a more influential role in guiding sentencing decisions is viewed as an attempt to counteract this perceived disparity (NSW LRC, 2006). In response to these concerns regarding public opinion and sentencing, the Criminology Institute conducted a survey with findings suggesting wide spread differences in public opinion regarding sentencing and no single public view (Walker, Collins, & Wilson, 1987). Additional research by Indermaur and Hough (2002) and Indermaur (1994) also explored the impact of public perceptions on sentencing. Some of the issues identified within these research studies were the variations in attitudes towards the seriousness of crimes, the culpability of offenders and the punitiveness of the sentence (Walker et al. 1987; Indermaur & Hough, 2002; Indermaur, 1994). A tendency has been found within respondents to punish violent offenders through imprisonment and property offenders by means of non-custodial penalties such as fines and good behaviour bonds, which is consistent with our legal system (Walker et al. 1987). The results indicated that individuals who are less educated, of lower SES, from rural area, males and persons over 60 were the more punitive groups (Walker et al. 1987). Overall the results

indicated that there is a great diversity in opinions regarding appropriate sentencing, which Walker and colleagues (1987) argue indicates an unexpected sophistication in public attitudes towards crime and punishment, with the public acknowledging the complexity of the sentencing process.

This diversity in public attitudes has met with alternative arguments as well with researchers suggesting that the public is confused and is being deceived about how much time offenders actually serve in prison, and that through the media the public are developing a greater fear of crime (Mauer, 1996). Mauer and others have argued that the general public is unaware of the intricacies of the sentencing process and does not understand the role of parole as an incentive for good behaviour (Mauer, 1996; Roberts, 1992; Smith, 1984). The media is argued to generally provide insufficient information on which the public is able to make a reasoned evaluation of the events, resulting in opinions that are being formed without any substantive knowledge of the criminal events or associated issues which also results in difficulties accepting the sentences allocated by judges (Broadhurst & Indermaur, 1982).

Victim Impact Statements

Sentencing offenders is a complex process and one that requires a judge to consider not only the offence that has been committed but also the consequences of that offence on the victim, their family and the wider community (NSW LRC, 2006). Mandatory sentencing removes any opportunity for consideration of factors such as the impact of the crime on

the victim and their family, in favour of a set sentence for specific offences (Ashworth, 1993). If extra-legal variables are to be considered within a flexible sentencing system it raises questions regarding whether the impact of the crime on the victim should be considered within the sentencing process, how much weight should be allocated to the impact the offence had on the victim and their family and how this information in turn relates to the length of sentence that is appropriate for the offender (Roche, 1999; Sentencing in Queensland Criminal Courts, 1997-1998).

Victim participation in the criminal justice system has been the subject of considerable discussion and debate. One factor has been that, crime victims have often felt abandoned by the very agencies from which they expect support, compassion and assistance (Dugger, 1996; Finn-DeLuca, 1994; Daubney, 1988). Previously victims of crime were considered by some to be the 'forgotten person' within the legal system (Walker et al. 1987). VIS have been used as a method for including victims and their families in the legal process, while at the same time providing judges with information about the impact of the offence on these parties (Sentencing in Queensland Criminal Courts, 1997-1998). The state of South Australia enacted law in 1988 specifically providing for VIS in the sentencing process, and other states have followed with legislation that either provides specifically or generally for the tendering of VIS on sentencing (Sentencing in Queensland Criminal Courts, 1997-1998).

A VIS is a written statement by a primary victim or family member of a victim of a crime (Sentencing in Queensland Criminal Courts, 1997-1998). The statement relates to the

personal harm suffered as a direct result of an offence (Sentencing in Queensland Criminal Courts, 1997-1998; Roche, 1999; Walker et al. 1987). All information included in a VIS must be proven beyond a reasonable doubt (The Queen Vs Phillip John Morrison: Davis, 2001). Completion of a VIS is voluntary and the courts will only consider the statement in connection with the determination of the sentence length to be imposed when it considers that it is appropriate to do so (Sentencing in Queensland Criminal Courts, 1997-1998). These VIS are one attempt to meet the needs and interests of crime victims and the community by ensuring that the victims are not forgotten within the sentencing process (Erez, 1991; Erez & Tontodonato, 1990 - 1992).

Controversy surrounds the appropriateness of VIS within the criminal justice system as it can be seen as yet another extra-legal variable that can fairly or unfairly influence the sentencing process (Ogilvie et al. 2000). Proponents of the use of VIS argue that they help prosecutors and judges experience the real victim of crime and often result in sentences that better reflect the harm caused to the victim (Ogilvie et al. 2000). A survey of judges' responses to VIS found that four fifths of the judges surveyed felt that the VIS had some effect on sentencing, and that they found it most useful in helping understand the level of financial loss, physical harm and the psychological effects of the crime (Hillenbrand & Smith, 1989; Ashworth, 1993). Additional arguments in favour of the use of VIS include the suggestion that victims benefit from the process with Hinton (1995) and Wells (1991) suggesting that completing a VIS is therapeutic for victims. Finn-DeLuca (1994) further suggested that victim attendance at court improves victims' evaluation of sentencing decisions.

Opponents of VIS suggest an alternative view that the use of victim impact statements makes sentencing an arbitrary process, shifting the focus from the offenders to the victim (Ogilvie et al. 2000). It is further suggested within the literature that a VIS creates different 'victim class levels' that result in harsher penalties being applied to offenders when the victim of a crime holds certain favourable characteristics, such as being upper class or white as examples (Glaeser & Sacerdote, 2000; Ogilvie et al. 2000; Abramovsky, 1992; Dugger, 1996; McCarthy, 1994; Mulholland, 1995; Vital, 1994). Anderson (1999) presents a strong argument opposing the use of VIS, suggesting that allowing victims a say in punishment of offenders damages our already tattered criminal justice system, by institutionalising revenge and as a result we have been guaranteed more anomalies and serious violations of human rights. A summary of some of the arguments for and against the use of VIS has been included in Table 2 taken directly from Erez (1991).

Table 2

Arguments Surrounding the Use of Victim Impact Statements

Arguments For Victim Impact Statements	Arguments Against Victim Impact Statements
Increased accuracy in sentencing	Victim input may undermine the court's insulation from unacceptable public pressure (Rubel, 1986)
Information is provided to the courts regarding the harm suffered by the victim and their family	Victim impact statement result in sentencing disparity between cases with and without victim impact statements
Victim's or their family are given the opportunity to speak	Sentencing disparity is dependant upon the resiliency, vindictiveness or other personality attributes of the victim (Grabosky, 1987)

If there is no victim involvement, this may foster greater feelings of helplessness and lack of control	The victim impact statement is argued to add very little information that is not already available.
The information provided and the process of hearing from a victim may assist with the rehabilitation of the offender by forcing them to confront the reality of the harm caused to the victim	The victim impact statement is argued to increase expectations of victims that cannot be met.
Participation in completion of a victim impact statement is argued to result in increased satisfaction with the court outcome.	The process of completing a victim impact statement may aggravate the victim's psychological distress as they relive the crime experience.
It was reported that victims were willing to provide information to the courts at the expense of re-living the crime. (Erez, 1991)	Victims may not want the offender to be fully aware of the pain they have caused.

Table 2 provides an overview of arguments both for and against victim impact statements as taken from Erez (1991).

Research findings reflect a mixture of results regarding the outcomes of VIS on sentencing and also on how the victim experiences the legal process (Erez, 1991). In addition to VIS having a potential impact on the sentencing outcome, it has also been suggested that VIS have a tendency to raise victims' expectations about their ability to influence sentencing, and these expectations may not be met (Erez & Tontodonato, 1990 - 1992). Also it has been found that because of these and other variables, VIS may actually negatively affect some victim's satisfaction with the justice process (Erez & Tontodonato, 1990 - 1992).

A VIS gives victims or their families the opportunity to tell the court directly about the harm done by the criminal offence, to request restitution and to express their concerns regarding the release of the offender (Daubney, 1988). These statements could be viewed

as a sensible and useful way of ensuring that prosecutors and judges have all of the relevant information available to them at the time of sentencing, however it has also been argued that these statements may do little to further the traditional goals of sentencing including deterrence, incapacitation, rehabilitation and retribution as this information is specific to the crime and not transferable to other offenders (Dugger, 1996; Black, 2003). It is possible that information about how the crime affected the victim could be used within the rehabilitation program for the offender with respect to understanding the impact of their offending behaviour and also in developing empathy for victims (NSW LRC, 2006).

Research regarding the relationship between VIS, sentencing outcomes and victim satisfaction continues to elicit debate and with the implementation of VIS occurring in what could only be termed a haphazard fashion, this is not surprising (Thomas, 1999). Despite the unclear results regarding the overall impact of the VIS and any clear legislation, the VIS has been apart of the sentencing process in Queensland since at least 1996 (Thomas, 1999). VIS has not been included as an extra-legal variable within the current research, however VIS is one example of how victim information can enter into the legal process.

Jurors Role in Sentencing: Proposed Changes in NSW

As previously identified, one of the many concerns regarding sentencing is the argument that the public perceives penalties as being too lenient and out of step with community

values and expectations, leading to an apparent decline in acceptance of and confidence in the fairness of sentencing decisions made by judges (NSW LRC, 2006). The traditional role of jurors in the legal system is to make a determination regarding the guilt or innocence of the defendant, while also being given the opportunity to recommend mercy, recommend a verdict on alternative charges and to deliver a special verdict by which they answer specific questions of fact (NSW LRC, 2006). His Honour James Spigelman, AC, Chief Justice of the Supreme Court of NSW has suggested a new role for jurors (Gibbs, 2005). The new role proposes a consultation process between judges and jurors with regard to sentencing of offenders (Gibbs, 2005). The aim of this new consultation process, as stated by Spigelman (2005), is to improve both the jury decision-making process and the judicial sentencing process as well as to enhance public confidence in the administration of criminal justice (Gibbs, 2005). It is argued that the high level of the dissatisfaction associated with public views on sentencing is a result of the perceived leniency of sentences (Sweetman, 2006).

This perception of leniency is argued to result from two key factors: firstly, an overestimation of the incidence of violent crime and secondly, the underestimation of the severity of the current sentencing practices (Indermaur & Hough, 2002; Paulin, Searle, & Knaggs, 2003; Hough & Roberts, 1998; NSW LRC, 2006). These public perceptions are reported to be highly dependant upon the amount of information the public receives about the case in question and also about the legal process in general (Hough & Roberts, 1998; Doble & Klein, 1989; Doob & Roberts, 1983; NSW LRC, 2006). The public perception that sentencing is too lenient has been found to be the result of media portrayal rather

then a reflection of the reality of sentencing (Indermaur & Hough, 2002; Kennamar, 1992; Roberts & Doob, 1990; Roberts & Stalans, 1997; Lyengar, 1991; Surette, 1998; Oliver & Armstrong, 1998; NSW LRC, 2006). The media is reported to be selective with regard to what cases and what sentencing outcomes are reported, which results in the public building an opinion based on minimal and often biased information (Indermaur & Hough, 2002; Kennamar, 1992; Roberts & Doob, 1990; Roberts & Stalans, 1997; Lyengar, 1991; Surette, 1998; Oliver & Armstrong, 1998; NSW LRC, 2006). The initial concern therefore is whether any changes to the system are required, if public perceptions are an inaccurate reflection of the reality of sentencing, then it is these perceptions that need addressing rather than the system itself (NSW LRC, 2006). This is not the contention of his His Honour Spigelman, who argues that to enhance public confidence in sentencing jurors should be involved in the sentencing process (Spigelman, 2005).

Spigelman's (2005) proposed system does not contend that jurors should actually determine the sentence but rather he proposes a system where judges consult with juries about sentencing recommendations. It is suggested that actively involving the jurors in the sentencing process will assist jurors in understanding why the final sentence was reached and therefore increase public confidence in the sentencing process (Spigelman, 2005). Public opinion is considered of the highest importance as it has been viewed as a powerful tool in influencing reforms and the decisions of policy makers (Blumenthal, 2007; NSW LRC, 2006). Further arguments in support of the new, more active role for jurors is that their involvement in sentencing will generally assist judges who are responsible for an independent sentencing decision by providing additional perspectives

and being able to clarify the factors that jurors considered important and influential when determining their verdict (Spigelman, 2005; NSW LRC, 2006). These discussions between judge and jury are proposed to occur during *in camera* consultation, which would be protected by secrecy provisions, and in which the judge discusses relevant issues with the jury after evidence and submissions on sentencing and prior to determination of sentence (Johns, 2006).

A number of concerns have been voiced regarding this proposed change, including the simplistic arguments that jurors are not legal experts and that this new system may lead to a form of mob sentencing (Sweetman, 2006; Pelly, 2005a - 2005b) to the more complex arguments surrounding the impact on jurors and public opinion (Gibbs, 2005; NSW LRC, 2006). A primary argument against the new proposal is that judges are already specifically educated and trained in the area of sentencing and they make their decisions based on complex legal principles (NSW LRC, 2006). As a result, it has been suggested that involving jurors would simply further complicate an already difficult decision-making process (Sweetman, 2006). Within the process of sentencing, judges already have to consider multiple factors, including the nature of the offence, the maximum penalty allowable, the previous sentences allocated for similar offences, the offenders criminal history, aggravating and mitigating factors, VIS and the purpose of the penalty including punishment, crime prevention (deterrence), community protection, rehabilitation, accountability and recognition of harm done (NSW LRC, 2006). As has already been stated, researchers suggest that involving jurors in this process simply provides an additional complication with little to no advantage (NSW LRC, 2006).

Further arguments against this proposal suggest that it may negatively impact on the jurors experience as a part of the legal process (Gibbs, 2005). It has been suggested by Gibbs (2005) that this proposed role would result in too heavy a burden being placed on jurors and that not all jurors would elect to be involved at this level. The role of jurors in determining guilt is already seen as stressful enough and it is therefore argued that involving jurors beyond their present role would only add additional stress to their duties, while also potentially distracting them from their primary role of verdict determination (McGrath & Ryan, 2004; Gibbs, 2005; NSW LRC, 2006). It has been further suggested that jurors may be more susceptible to the transient pressures of the public and the unpopularity of the sentencing outcome, which may in turn negatively influence the sentencing recommendations they put forward (NSW LRC, 2006).

Generally public opinion is viewed as malleable and in a public attitudes survey it has been found that not only is it vulnerable to change but it is also not consistent across social groups with the elderly, males and those less educated being found to be more punitive than other social groups (Herbst, 1998; Beckett & Sasson, 2000; Indermaur, 2006; NSW LRC, 2006). With the high level of importance being placed on public opinion and with public opinion being so variable, it appears that it would be very difficult to foresee the long-term impact of such a fundamental change in sentencing procedures. Some legal representatives and researchers have suggested that one potential outcome is not increased public understanding and support for sentencing as suggested by Spigelman (2005), but rather an increase in uncertainty and anxiety (NSW LRC, 2006).

This perceived negative outcome has been suggested on the theory that public opinion would continue to falter as there would be no dramatic increase in sentencing severity and the perception of excessive leniency would therefore remain, which in turn would unintentionally further erode public confidence in the jury system (NSW LRC, 2006). Two final arguments against this new proposed role for jurors are that jurors may take into account irrelevant or unrealistic information when expressing their opinions and that this information or possible bias is not helpful to judges, and also that the entire process would create additional delays and expense to achieve minimal gains (NSW LRC, 2006).

It is clear from the current research (which is understandably restricted at this stage) that this proposal could result in both positive and/or negative changes within the sentencing process, either increasing public understanding and acceptance of punishments due to their more active role and increased influence over the final sentencing decision, or alternatively it could result in increased juror stress, further considerations for judges that may not be significantly beneficial within the decision-making process and it may also potentially result in continued or increased public dissatisfaction with regard to sentencing of offenders (Gibbs, 2005; NSW LRC, 2006; Pelly, 2005a - 2005b). This research and the proposed change to the sentencing process is of considerable importance to the current research, as it highlights the magnitude and diversity of public opinion and the influence that these opinions can have on policy, while also highlighting the differences between social groups with regard to sentencing. It also raises the question of how far public views on sentencing actually are from the average current sentencing outcomes. The results from the current study will positively contribute to this area of

current debate by providing some indications regarding public perceptions for one region of the Queensland population and indications regarding the impact of some extra-legal variables on potential juror views on sentencing.

Chapter 2:- Public Perceptions of Sentencing and Criminal Behaviour

Public Perceptions and Criminal Behaviour

Social cognitive research has suggested that cultural, motivational, personal, situational and affective influences may each play a role in the shaping of individuals perceptions of social events, as well as in the attributions and inferences made about events (Blumenthal, 2007). The criminal justice system is dependant upon public confidence in their effective operation (Indermaur & Hough, 2002). Without widespread belief in the fairness and effectiveness of the legal system it is argued that it would eventually cease to function (Indermaur & Hough, 2002). The rule of law requires public consent and in this respect the criminal justice system occupies a unique place in the public sector and public attitudes towards it demand a special response (Indermaur & Hough, 2002). Influencing public opinion on punishment requires first and foremost a good understanding of the nature of public opinion and in particular those forces that can influence that opinion (Indermaur & Hough, 2002).

Some difficulties have been identified regarding public opinion of punishment including, the general public being poorly informed about crime and justice, misunderstanding the nature of crime and punishment, overestimating the utility of punishment and the value of imprisonment and underestimating the value of alternative responses to crime (Indermaur & Hough, 2002). Public attitudes to punishment are clearly influenced by a range of factors some of which are fairly specific and have a direct impact while others achieve

their impact indirectly (Herbst, 1998; Beckett & Sasson, 2000). Some of the sources identified that influence public views include direct experience, mass media effects, victim blaming and jury service (MacCoun, 2001).

Kennamar (1992) developed a model that attempts to clarify how media influences public opinion and public policy. Within this model the media occupies the heart of the interaction between three forces 1) policy makers 2) special interest groups and 3) the public (Kennamar, 1992). The media acts as the conduit for expression and conveying of the positions of these parties (Kennamar, 1992). It has been argued that the media can distort public opinion (Roberts & Doob, 1990; Lyengar, 1991; Roberts & Stalans, 1997; Surette, 1998; Oliver & Armstrong, 1998). Although many assume that media coverage and political action are driven by public opinion, closer analysis shows that public opinion is just as likely to reflect media depictions which, to a varying extent depends on initiatives by political and special interest groups (Indermaur & Hough, 2002).

Research indicates that the majority of public knowledge about crime and justice is derived from the media (Dowler, 2003; Roberts & Doob, 1990; Surette, 1998). More specifically it was found that the content of media presentations was critical in the relationships between public attitudes and media information (Dowler, 2003; Roberts & Doob, 1990; Surette, 1998). Research by Heath and Gilbert (1996) found that when large amounts of local crime news is presented, public fear increases while the presentation of non-local crime has been found to have the opposite effect of making local viewers feel safe in comparison to other areas. In addition to this finding research has also indicated

that presentations of crime news increases public pressure for more effective policing and more punitive responses to crime (Brillon, 1987; Sheley & Ashkins, 1981; Liska & Baccaglini, 1990; Garofalo, 1981). Kennamar's (1992) model may overstate the power of the media but does highlight how public opinion can influence policy, which in turn highlights the need for research into public opinions and attitudes in order to obtain an accurate reflection of their relationship.

Study into public perceptions provides valuable information regarding the thinking of individuals and this knowledge can then be applied within the judicial and legislative arena (Blumenthal, 2007). Identifying the basic sorts of judgements that individuals make in evaluating crimes consciously or not, can help guide substantive policy, can help the legal system educate citizens about the substantive law and can help educate the legal and political systems as well (Blumenthal, 2007). Additionally research on public perceptions can also be used in developing criminal justice policies such as allocation of police resources or the structuring of sentencing guidelines (Blumenthal, 2007).

Previous Research on Sentencing and Public Opinions

Behaviours are made criminal in large part because of public perception that they are morally wrong, that is a criminal offence is defined primarily by its inherent lack of morality (Stalans & Diamond, 1989). The criminal law is the codification of the outrage felt by people when the actions of deviants violate the commonly held moral principles (Walker & Hough, 1988). Sentencing is the general term used to describe the

punishments handed down to persons who behave in a way that violates the criminal laws of a society. Public perceptions regarding appropriate sentencing practices has been a topic of interest for a number of researchers (Doob & Roberts, 1987; Walker & Hough, 1988, Roberts, 1992; Indermaur & Hough, 2002). Unfortunately exploring public views on sentencing is not as easy as simply asking the question is sentencing too harsh, too lenient or about right, because previous research has found that when asked this form of question the majority of participants state that sentences are 'not harsh enough' (Walker & Hough, 1988; Roberts, 1992). Researchers argue that this occurs not because it is an accurate reflection of public opinion but because the question is an over simplification of public attitudes to sentencing (Walker & Hough, 1988; Roberts, 1992).

Researchers have found that a preferable method for assessing public views on appropriate sentencing is to utilise specific crimes and crime scenarios (Stalans & Diamond, 1989; Walker & Hough, 1988; Roberts & Stalans, 1997; Walker, Collins & Wilson, 1987). When the public is asked about appropriate punishments for individual crimes many people's preferences were found to reflect the range of sentences actually imposed by the courts (Doob & Roberts, 1983). The amount of information about a case was found to be critical in determining public reactions (Doob & Roberts, 1983). Doble and Klein (1989) explored this very issue comparing participants sentencing recommendations when being given no sentencing information as compared to a list of sentencing options. They found that when participants were given information regarding sentencing options they were less likely to advocate for imprisonment (Doble & Klein, 1989). In general the more information the public were given the less punitive they

became (Doble & Klein, 1989). Roberts and Doob (1989) found within their study that there was no significant difference between the courts and the public with regard to incarceration rates. Which is consistent with Roberts and Stalans (1997) claim that the public is not nearly as punitive as sentencers, politicians and public officials assume they are.

A British survey conducted by Hough and Roberts (1998) found that public views on crime and sentencing were flawed. They specifically found that the public mistakenly believed that crime was increasing, they overestimated the proportion of the population with a criminal record involving violence, they were generally unaware of the upward trend in the use of imprisonment as a form of punishment, they were generally ignorant of the sentencing alternatives available to the courts and they underestimated the courts use of imprisonment for three specific crimes, rape, mugging and burglary (Hough & Roberts, 1998). In addition to these specific findings Hough and Roberts (1998) research also found that four fifths of their participants thought sentencing is ‘too lenient’ and over half felt it was ‘much too lenient’. Hough and Roberts (1998) argue that much of public dissatisfaction is grounded in ignorance of current practices and of crime trends and that the most dissatisfied people are also the most likely to overestimate the growth in crime, the degree to which crime is violent and underestimate the courts use of imprisonment.

Systematic reviews of public opinion regarding crime and justice are seen as an important corrective to the current communication failure between the criminal justice system and the public (Flanagan & Longmire, 1996). The current study seeks to contribute to the

discussion over the extent to which substantive law should match or reflect lay institutions (Blumenthal, 2007). Public attitude is highly variable, quickly changing and largely dependent on the context and questions asked (Indermaur, 2006). Measures of attitude are said to reflect more about an individual's emotions and values and less about their knowledge or considered thought about a particular topic (Indermaur, 2006). When given sufficient information and asked what to do in a certain scenario the public have been found to respond in a more sober fashion (Indermaur, 2006). Public knowledge on sentencing will help ensure an ongoing process of collaboration and contribution to public policy (Beckett, 1997). With researchers continuing to question the level of public punitiveness the current study will aim to add to this debate utilising the recommended model of using a specific crime within a crime scenario to elicit public perceptions regarding sentencing.

Chapter 3: - Previous Research Regarding Sentencing and Extra-Legal Variables

Women, Sentencing and Gender Bias

When discussing sentencing previously, it was noted that the severity of a crime influences the sentencing process. However, a question remains as to what other factors should be taken into consideration when sentencing is left to judges' discretion. Do factors such as gender, previous criminal history, victim characteristics, and other factors including race, social status, attractiveness and age influence sentencing decisions? Research conducted in the United Kingdom found that men, older people, citizens with lower educational attainment and readers of tabloid newspapers seem to hold significantly more punitive views (Flanagan & Longmire, 1996). This research highlighted the impact extra-legal variables can have on public views regarding sentencing. Flanagan and Longmire (1996) found that gender is a potential extra-legal variable that influences how the public perceive sentencing recommendations.

The argument that gender is an extra-legal variable that influences the sentencing process appears to be well founded. Nagel and Weitzman (1972) reported a gender bias when they compared sentences for women and men for the crimes of grand larceny and burglary, with the sentences found to be more lenient for women. This research does not stand-alone; a survey conducted in Los Angeles found that for 10,500 offenders, male judges handed down more lenient punishments to women than to men (Wrightsmen et al. 2002). In other research, Ferraro (1997) reviewed studies on women in prisons and found

that gender had a significant impact with regard to crime and punishment. In Ferraro's (1997) review of a study by Daly (in which the sentences of convicted felons were compared on the basis of gender), it was found that the research generally indicated that women receive more lenient sentences than men for crimes of equivalent severity.

Research within Australia and based upon Australian statistics has also revealed a gender disparity within the Australian legal system relating to punishments imposed (Australian Bureau of Statistics, 2005). Farrington and Morris (1983) conducted research in Australia comparing court allocated sentences based on gender across similar offences and found that females tend to receive shorter sentences than males. They also found that female offenders are more likely to be first time offenders, commit less serious offences and that female offenders' used less violence within their crimes (Farrington & Morris, 1983).

The research suggesting a gender disparity in sentencing is further supported by findings that generally female offenders are less likely to receive a prison sentence, while also being less likely to have prior convictions (Gallagher, 2006). Additional research specifically relating to the length of prison term allocated has found that males are twice as likely as females to be given a full prison term (Poletti, 2000). The main arguments presented for this particular disparity of men being given lengthier sentences were that men tend to commit more serious offences and have more extensive criminal histories (Poletti, 2000). This argument that sentencing differences are a function in part of previous offending history has been supported by research on NSW female offenders,

which has found that 53.9 percent of females involved in the legal system had no prior record compared to 38.2 percent of males (Poletti, 2000).

Another area of gender-based disparity in sentencing has been revealed with regard to allocation of fines as a punishment (Naylor, 1990). Naylor (1990) found that women are generally fined less than men for the same offence. This finding was reported to be the result of a “generalised assumption regarding women’s financial situation and capacity to pay a fine” (Naylor, 1990). Fox and Freiberg (1985) stated that although gender is not officially considered as a factor in the sentencing process, sentencing trends in Victoria indicated a clear bias in favour of women and that this trend was well entrenched. Fox and Freiberg (1985) explored reasons for the apparent gender bias and developed a list of some of the influential factors related to the sentencing of women. This list included a general expression of compassion for female offenders, public opinion regarding mercy for female offenders, lower recidivism rates, differences in the prevalence of crime between the sexes (meaning that deterrence is not as necessary for the female population) and finally the consideration of child care responsibilities (Fox & Freiberg, 1985). This research is consistent with Wilker’s (1987) findings of what she reported to be “overwhelming evidence that gender based myths, biases and stereotypes are embedded in the attitudes and behaviours of some of those who serve as judges as well as in the law itself” (p.22).

A study by Fisher (1997) explored the effects of demographic variables of jurors and found that more females than males voted guilty in simulated rape cases. It was

hypothesised from this finding that the number of guilty verdicts would increase as a function of the number of women on the jury, at least once women were a majority (Fisher, 1997). The results found, however, that guilty verdicts did not increase significantly until females were either an overwhelming majority (10 or more out of 12) or the entire jury was female (Fisher, 1997).

In response to these findings and arguments of sentencing disparity, Naylor (1990) found that prior history of offending and seriousness of the offence committed were the most influential factors accounting for sentencing differences across genders and she further stated that when these factors were considered, female offenders were not treated any differently within the sentencing process (Naylor, 1990). Farrington and Morris's (1983) research also supported this finding with no significant gender based differences in sentencing being identified. Generally, it appears that research within the area of gender and sentencing must take into consideration not only the final sentencing outcome, but also the variety of factors that may contribute to any differences identified. The Australian Law Reform Commission (2006) provided a summary of some of the factors related to female offenders that need to be considered when examining sentencing outcomes. These factors included socio-economic status, education, vocational skills, history of being a victim of physical or sexual abuse, Aboriginal status, having English as a second language, suffering from a mental illness, having an intellectual disability, suffering from drug and alcohol abuse issues and child care considerations (Australian Law Reform Commission (ALRC), 2006). The question that then comes to mind is whether all of these factors are also considered for male offenders and if not, why not?

It is important to explore the gender factor in sentencing within the context of women's participation in crime. Research exploring the most extreme of penalties the death penalty in the USA and the gender factor report that the number of women awaiting execution at the time of the study was half that of men, and that the crimes associated with these death penalties were more often for the murder of an abusive spouse (Kaufman-Osborn, 1999). When exploring the phenomenon of gender based leniency in sentencing, Ferraro (1997) discusses the relationship between gender ideologies and the treatment of women in prison, suggesting that the gender imbalance does not end at sentencing, but is present as a general underlying factor within the entire legal process. It is important to alert readers to exercise caution when reading gender based research, because a number of researchers fail to control for past criminal history and seriousness of offence when conducting or reporting their comparisons (Ferraro, 1997; Wrightsman et al. 2002). Ferraro (1997) and Wrightsman and colleagues (2002) have argued that when these factors are taken into consideration, a considerable amount of gender-based leniency disappears.

There are numerous arguments as to why the gender discrepancy exists, with Streib (1990), arguing that women are sentenced to death less often because they are seen as better candidates for rehabilitation and are less likely to have an existing criminal record. Furthermore it is readily contended that when women commit acts of violence such as murder, they often do so in an emotional or mentally disturbed state and act without premeditation (Streib, 1990).

The overall gender bias that appears to be present within legal systems may be appropriate given some of these arguments. Alternatively, it may be a reflection of pre-conceived notions regarding women and crime that impact on the sentencing decisions of judges (Kaufman-Osborn, 1999). Research is currently in its early stages with regards to these issues and it is therefore difficult to determine whether in fact a gender 'bias' is present within the system or if other factors are attributable to the differences that are sometimes reported.

The gender discrepancy has also been identified with regard to jurors, with researchers arguing that females vote guilty more often in simulated rape cases (Fisher, 1997). However, further research has demonstrated that guilty verdicts do not increase significantly until females make up an overwhelming majority of the jury (i.e. 10 females to 2 males) (Fisher, 1997). Research by Hough, Lewis and Walker (1988) also found that women and younger respondents tended to be less punitive than others. Again, additional research is required into juror gender ratios in order to determine whether it has a consistent impact upon sentencing. As previously stated gender based discrepancies need to be considered within the context of female offending.

Women and Differences in Offending Behaviour

When exploring the extra legal variable of gender and its impact on sentencing outcomes researchers have focused heavily on offender gender. Researchers such as Streib (1990),

and Kaufman-Osborn (1999) have suggested that there may exist a gender based disparity with regard to sentencing outcomes however they have also highlighted that when considering gender as a component of offending it is important to be mindful that these sentencing differences may be a function of the overall differences in the offending behaviours of men as compared to women. Research by Farrington and Painter (2004) found that when male and female offenders were compared across specific crimes males disproportionately committed crimes of burglary (20% male as compared to 6% female) and vehicle theft (13% male compared to 4% females). While within the sample females disproportionately committed offences of shoplifting (28% female to 6% male) and offences of deception (27% female to 12% male) (Farrington & Painter, 2004).

Nagel and Johnson (1994) reported a similar discrepancy in the offences committed across the genders with females being more prominent in offences relating to drugs, embezzlement and fraud. In addition to these research findings Kaufman-Osborn (1999) reported a gender difference for the more serious offence of murder stating that women typically kill people that are known to them while in comparison men typically kill strangers in conjunction with some other felony such as robbery. It should also be noted at this stage that Kaufman-Osborn (1999) reported that in the United States of America women are only responsible for approximately one eighth of the nations murders.

Ogilvie, Lynch and Bell (2000) reported that although females were cautioned more for property offences they found little obvious evidence of any marked sex / gender effect with respect to the type of offences committed.

Statistically in 2004 of the total federal prisoner population in Australia approximately 13 percent were female (ALRC, 1988). Also a New South Wales survey conducted in 1995-1999 found that social security fraud accounted for 15.6 percent of all offences committed by women. This was argued to be a consequence of social and economic disadvantage (ALRC, 1988). In Australia in 2005 males dominated the prison population comprising 93 percent (23,619) of the total prison population as compared to the females 7 percent (1,734) (Australian Bureau of Statistics - Prisons in Australia, 2005). Women were also found to be proportionately less likely than males to appear before the higher level courts (Australian Bureau of Statistics, 1999-2000). A review of Australian statistics also revealed that males were found guilty of more homicides, sexual assaults and robberies than females. These differences in types of offending across the genders must be taken into consideration when exploring gender disparities and sentencing.

Victim Gender

This gender bias is not restricted to the gender of the defendant; a discrepancy appears to exist with regard to the gender of victims as well. Turow (2003) reported that capital punishment is imposed three and a half times more often when the offence involves the murder of a woman than when the sentencing is compared to cases involving the murder of a man. The American Bureau of Justice national data set was reviewed by Glaeser and Sacerdote (2000), with a gender disparity being found with regard to the sentences defendants received and the gender of the victim. The findings indicate that defendants were given sentences that were 56 percent longer when they were found guilty of killing

a woman (Glaeser & Sacerdote, 2000). This particular gender bias appears to place disproportionate values on the lives of men and women (Turow, 2003). The sentencing may reflect a premise that the offence of murdering a woman is of greater severity and therefore deserving of a more severe punishment than does the crime of murdering a man. Previous research appears to indicate that the gender of the victim has a considerable impact on the sentencing process if considered on its own (Turow, 2003). This research continues to reflect a gender bias within the legal process, which brings into question whether these gender discrepancies are a reflection of gender based ideologies and beliefs within society, or simply an indication of a decision making bias.

The current research seeks to explore whether the gender of a victim has an impact on the sentence participants feels is appropriate, and also considers the impact of the gender of participants within this decision process. If current sentencing practices are a reflection of social norms, then a discrepancy should be identified relating to the victim's gender, consistent with previous research. The additional examination of the impact of the gender of participants may provide some insight into whether men and women generally differ in their sentencing recommendations and also whether they may hold conflicting views regarding victims based on the victim's gender and therefore sentence differently.

The majority of the gender in crime research is American-based and should therefore be considered with care if it is to be generalized to Australia, but it does provide a basis for research development in an Australian context. Australia does not use the death penalty, which is often the basis for sentencing research in America. Australian-based research

regarding sentencing is limited, but the general arguments regarding the reasons why women would be viewed differently in the legal process appear to have face validity and to be cross culturally relevant.

Race in the face of the sentencing process

Sentencing research exploring the impact of a defendant and victim's race has consistently demonstrated that race remains an influential factor in the determination of sentence length (Fairchild & Cowan, 1997; Parloff, 1997). Several studies have examined the effects of the race of the defendant on jury decision-making, with scholars and scientists claiming that Anglo-Saxon jurors often exhibit a bias against African American defendants (Fairchild & Cowan, 1997; Parloff, 1997). In addition, concern has also been voiced concerning African American jurors treating African American defendants more leniently than would Anglo-Saxon jurors (Fairchild & Cowan, 1997; Parloff, 1997). A meta-analysis of 37 studies exploring this phenomenon revealed that defendant race did not significantly influence verdicts, however once convicted, African Americans and Anglo-Saxon's received different punishments, depending on the type of crime they had committed (Mazzella & Feingold, 1994). Specifically, African Americans received harsher punishments for negligent homicide, whereas Anglo-Saxon's were given harsher punishments for fraud and embezzlement (Mazzella & Feingold, 1994).

Colfax (2003) compared death penalty cases on the basis of the race of the victim and reported that defendants in cases involving Anglo-Saxon victims resulted in the death

sentence three and a half times more often than cases where the victim was from a racial minority group. Glaeser and Sacerdote's (2000) analysis also found a victim race disparity with sentencing being 53 percent shorter when the victim was African American. Wuensch and colleagues (2002) conducted an analysis of criminal trials in the USA and found that defendants received longer sentences when they were African American as compared to Anglo-Saxon and also when the victim of the crime was Anglo-Saxon. Turner (1996) demonstrated the same race discrepancy within his research, finding that defendants that were found guilty of killing individuals of Anglo-Saxon background received the death penalty in 11 percent of the cases analysed, but in cases where the defendant is found guilty of killing an individual of African American background the death penalty was only invoked in one percent of these cases.

Turner (1996) took his analysis a step further and conducted a 'defendant race' combined with 'victim race' analysis and concluded that: - in cases involving African American defendants and Anglo-Saxon victims the death penalty was endorsed in 22 percent of the cases, the highest percentage group. In cases where both the victim and the defendant were Anglo-Saxon, the death penalty was imposed in eight percent of cases, while in those involving both African American defendant and victim, it was imposed in only one percent of cases (Turner, 1996). Finally in cases where the defendant was Anglo-Saxon and the victim African American, the death penalty was applied in only three percent of cases (Turner, 1996). Turner (1996) concluded from his research that defendants charged with killing Anglo-Saxon individuals were 4.3 times more likely to receive the death penalty than defendants found guilty of killing an African American individual. In

addition to these findings, research has also indicated that African Americans are more likely to be refused bail and to be charged with felonies in the USA (Spohn, 1995).

An examination of Australian criminal statistics has revealed a similar trend, with indigenous Australians being over represented within our legal system and frequently receiving lengthier sentences (Australian Bureau of Statistics, 2005; ALRC, 2006; Sarre, 1994; Morgan, 2002). According to the Australian Bureau of Statistics indigenous persons accounted for 22 percent of our prison population in 2004 – 2005, the highest rate since 1995 (Australian Bureau of Statistics, 2005). This rate (12 percent) represented the largest annual increase since 1999 (Australian Bureau of Statistics, 2005). Further analysis of sentencing statistics and racial discrepancy reveals that indigenous persons are disproportionately represented within the criminal courts and prisons and also 12 times more likely than non-indigenous persons to be in prison in 2005 (Australian Bureau of Statistics, 2005; Sarre, 1994).

In Australia indigenous imprisonment rates are much higher than non-indigenous rates across all jurisdictions, with indigenous imprisonment rates increasing from 1987 – 1999 except in the Northern Territory (Morgan, 2002). One of the arguments presented to account for this over-representation in the criminal system and more severe sentencing outcomes is the impact of mandatory sentencing, which is reported to have a disproportionately negative impact on indigenous people (Morgan, 2002). Specifically, in Western Australia eighty percent of the “three strikes” cases in the children’s court are for offenders of Aboriginal or Torres Strait Islander background and this alarming statistic

increases to one hundred percent for those offenders under the age of 14 years (Morgan, 2002). Other general arguments presented in an attempt to explain the sentencing disparity include the impact of social and economic disadvantage, offending history, higher rates of violence used within offences, and higher rates of recidivism (Morgan, 2002).

If taken at face value, the research completed in the USA indicates a considerable race-based bias within the sentencing process in both inter and intra-racial crimes (Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Wuensch et al. 2002; Turner, 1996; Mazzella & Feingold, 1994; Spohn, 1995). However, it is important to remember that all cases involve a number of other factors that will contribute as a whole to the sentencing process. Therefore it is difficult to examine the outcomes of cases and simply make comparisons without taking into account such influential factors as criminal history and specific crime circumstances. The Australian statistics also indicate that indigenous persons are over represented within the legal and prison system and that often the sentences are not comparable to those assigned to non-indigenous offenders (Australian Bureau of Statistics, 2005; Sarre, 1994; Morgan, 2002). However, again it is important to highlight that these race-based differences may be the result of a number of variables.

Generally the existing research appears to demonstrate a race-based discrepancy in sentencing, but at this stage the reasons as to why this occurs have not been appropriately explored. The race-based research is simply another indication of how extraneous variables that have no bearing on the actual offence committed, including the impact of

race upon punishments (sentencing outcomes). The current research does not specifically explore race as an extra-legal variable. It does however include an examination of participant variables including an exploration of extra-legal variables including age, gender, victim history, JWB and LOCB in an attempt to explore whether these factors may contribute to differing views with regarding to appropriate punishments. As previously indicated research focusing on sentencing outcomes does not provide us with information about what individual factors may be contributing to the existence of such a discrepancy. It is acknowledged that JWB and LOCB are clearly not the only potential variables that may be related to these differences however their inclusion provides an initial step towards exploring why these differences may exist.

Defendants and Socio-economic Status

A meta-analysis reveals that jurors rendered more guilty verdicts and gave harsher penalties when the defendant was of low SES than when the defendant was a member of the upper class (Mazzella & Feingold, 1994). It is important to note that the effect size was found to be small due to the conflicting results of some of these studies. The studies varied in their outcomes, with some finding that low SES defendants were assigned significantly longer sentences than high SES defendants (Osborne & Rappaport, 1985), while another researcher found no effect for defendant SES on punishment (Gleason & Harris, 1976) and yet another two studies found that high SES defendants were given harsher sentences (Bray et al. 1978; Gray & Ashmore, 1976). Research by Hough, Lewis and Walker (1988) found within their survey of public attitudes across five countries that

respondents with a higher educational and socio-economic level had a tendency to be less punitive than other respondents.

These conflicting results are difficult to explain. It has been argued that the disparities in verdicts and sentencing may be based on the relationship between the characteristics of the juror and the defendant (Daudistel, Hosch, Golmes, & Graves, 1999; McGowen & King, 1982; Nagel & Weitzman, 1972; Perez, Hosch, Ponder, & Trejo, 1993). Therefore, it is difficult to identify any clear-cut rules governing which of the defendant's characteristics jurors will view negatively. This research has influenced the current research project by prompting a decision to examine both the participant and victim characteristics in order to explore whether there is any potential interaction and to explore what factors are most influential in the sentencing decision making process.

Age and Sentencing

When considering age and criminal behaviour it is important to understand that the defendants' age at the time of the offence is influential in how they are dealt with in the legal system. The legal system recognises that young people change throughout the developmental stages, with each stage representing a different level of understanding (Lickona, 1976). The law is therefore aimed toward affording protection to those identified as vulnerable (Lickona, 1976). Australian jurisdictions have recently arrived at a uniform minimum age of criminal responsibility (Young People and Crime, 2006). Under federal law and across all states and territories except the Australian Capital

Territory and Tasmania, children under ten years cannot be charged with a criminal offence (Urbas, 2000; Young People and Crime, 2006). In addition to this under ten years provision there is also a legal presumption that children under the age of fourteen are incapable of committing an offence because they lack an appropriate level of understanding of what is right and wrong (Urbas, 2000).

The concept termed 'Doli Incapax' comes from the common law inherited from Britain (Urbas, 2000). It is the presumption that children under the age of fourteen years are not capable of committing a crime because they do not have the capacity to know that what they have done is seriously wrong unless it is proven to the contrary (Urbas, 2000; Young People and Crime, 2006).

Under the Queensland Criminal Code Act 1899 section 29(2) the law states that 'a person under the age of fifteen years is not criminally responsible for the act or omission unless it is proved that at the time of doing the act or making the omission the person had the capacity to know that the person ought not do that act or make that omission' (Lickona, 1976). Under this principle in order to prosecute a child aged ten to fourteen years it is necessary to prove beyond a reasonable doubt that he or she knew when committing the offence that it was seriously wrong (Urbas, 2000). The onus of proof is on the prosecution to prove that the child knew the act was wrong (Urbas, 2000; Lickona, 1976). The principle of 'Doli Incapax' is considered controversial and it was abolished in Britain and under legislation in 1998. The maximum age for treatment as a child for criminal responsibility varies somewhat in most jurisdictions it is seventeen years except in

Queensland where the maximum age is eighteen years (Young People and Crime, 2006). The maximum age for criminal proceedings under juvenile justice legislation varies across Australia in the Northern Territory, Victoria, Tasmania and Queensland individuals are dealt with in the adult system after the age of seventeen years. In all other states, in the Australian Capital Territory and under federal legislation people are tried in the adult jurisdiction when they are eighteen years old (Urbas, 2000). Legal protection and special considerations are not limited to age of criminal responsibility and 'Doli Incapax', other age related legal protections include a legal age for consent for sexual acts, an age at which civil proceedings can be issued, age of drinking and attending MA or R rated films and an age for gambling and driving, marriage and voting and also legal ages for leaving home and obtaining employment (Lickona, 1976). These age limits are all related to the protection of children in society and the legal process.

Age is not only legally relevant for defendants but also when considering victims of crime. The age of the victim is specifically relevant to the sentencing process because it is one of the factors taken into consideration when determining responsibility within the offence (Sentencing, 2007). When sentencing for offending the law provides for aggravating factors under section 21A (Sentencing, 2007). A victim is considered vulnerable when they are very young or very old, have a disability or because of the victims occupation (Sentencing, 2007, Victims of Crime, 1996). Vulnerability of a victim refers to the vulnerability of the specific victim and not the vulnerability of all members of the community (Sentencing, 2007; Victims of Crime, 1996; Starke, 1988). With regard to the age of a victim there is a specific provision within the law that looks at

whether there is a marked discrepancy between the ages of an older offender and a young victim (Starke, 1988). If there is a considerable discrepancy this can also be viewed as an aggravating factor (Starke, 1988). With respect to sexual offences the law has an additional provision that states that where a victim is unable to understand the sexual nature of the offence due to their age (young child) the law recognises that they are not genuinely consenting to the sexual act (Heath, 2005). This provision is referred to as the cognitive capacity to consent (Heath, 2005). The vulnerability of the victim calls for a heavier sentence within the courts (Starke, 1988). A child victim has been included within the analysis in part to observe whether participants view a child victim differently.

Age as an Extra-Legal Variable.

Research exploring sentencing has not overlooked the impact of age within the sentencing process. Bergeron and McKelvie (2004) examined the impact on sentencing when the age of the defendant was modified. In their study, participants read a vignette describing either murder or theft, and the age of the defendant was varied from 20, 40, 60 to 95 years old (Bergeron & McKelvie, 2004). The participants were asked to provide both a sentencing and a parole recommendation (Bergeron & McKelvie, 2004). Within the murder condition, it was found that participants sentenced the 20 and 60 year-old man less harshly than the 40 year-old man, which was reported to confirm previous archival findings of an age discrepancy in sentencing (Bergeron & McKelvie, 2004). However this result was only obtained for the murder scenario and not for the theft scenario within the study (Bergeron & McKelvie, 2004). They discussed the results in terms of the

context of the 'just deserts' and 'utilitarian rationales' that guide sentencing (Bergeron & McKelvie, 2004).

It has been argued that our legal system should ideally be free of bias, and that judgements should be based solely on evidence and not be influenced by extra-legal factors, but the current research and the research of others does not demonstrate this ideal (Bergeron & McKelvie, 2004). Specifically with regard to the age of defendants, Bergeron and McKelvie (2004) suggested that a younger person might be sentenced more leniently as they are considered more likely to be successfully rehabilitated as compared to their older counterparts. This argument assumes that age is a predictor of recidivism, which may not be a justifiable argument but rather a stereotyped view of younger people.

Champion (1987) examined the convictions for elderly offenders (60 years and over) and found that the sentences assigned and the sentences actually served were small in proportion to the maximum possible sentences allowable, however he did not compare the sentences to other age categories. Wilbanks (1988) examined the records for offenders 60 years and older and compared them to the sentences of offenders within the 25-59 year age group and found that the younger age group received more lenient sentences. A further archival study was conducted by Cutshall and Adams (1983), examining the sentences given for shoplifting offences for three age groups, 17 to 25 years, 26 to 49 years and 50 years and over. The findings indicated that overall, older people were significantly less likely to be prosecuted than middle-aged people but not in

comparison to younger people (29%, 45% and 39% respectively) (Cutshall & Adams, 1983).

Overall the research appears to indicate that younger people and older people are treated more leniently within the legal system as compared to those considered to be within the middle age ranges (Cutshall & Adam, 1983; Bergeron & McKelvie, 2004; Champion, 1987; Wilbanks, 1988). This age discrepancy was more apparent when examining crimes of a more severe nature (Bergeron & McKelvie, 2004). The general arguments relating to the apparent age discrepancy in sentencing appear to revolve around the severity of the offence and the perceived likelihood of rehabilitation (Bergeron & McKelvie, 2004).

Generally it is suggested that young and elderly offenders committing less serious crimes may be viewed as more likely to be rehabilitated and as less serious threats to the public (Bergeron & McKelvie, 2004). The reasons proposed by Bergeron and McKelvie (2004) for the age bias may fail to be inclusive of more general social factors such as stereotypes, race and SES, but regardless of the reasons for the presence of the bias, research has consistently demonstrated that age is an extra-legal variable that has a significant impact on sentencing outcomes (Bergeron & McKelvie, 2004; Cutshall & Adams, 1983; Champion, 1987; Wilbanks, 1988).

Although the age of defendants has been subjected to some exploration, the age of victims does not appear to have been examined in detail. Research by Glaeser and Sacerdote (2000) indicated that when the victim is older, the sentence allocated to offenders was longer. In other gender comparisons it has been demonstrated that

sentencing is affected not only by the gender of the offender but also by the gender of the victim (Turow, 2003; Colfax, 2003; Wuensch et al. 2002; Turner, 1996). It would seem a logical step to question whether a similar pattern will apply to the age discrepancy. If younger and older offenders are seen as less of a threat to society and as more able to be rehabilitated (Bergeron & McKelvie, 2004), what impact would it have if the offence were committed against a child, young adult, middle aged adult or an elderly person? This question appears to have gone unanswered and a potential victim based age discrepancy may be another identifiable extra-legal factor that may impact upon the already complicated sentencing process. The current research therefore seeks to explore this factor by manipulating the age of the victim and exploring the impact on the sentencing deemed appropriate by participants. The age of participants will also be explored as this may be an influential factor in the decision making process with regard to sentencing.

Attractiveness and Sentencing

Along with the extra-legal factors that have already been discussed, including the impact of race, gender and age on sentencing, a final factor that has been identified in the research as being of some concern within the sentencing process is the impact of attractiveness. It seems to be an entirely irrelevant factor that the attractiveness of an offender or of a victim should have any bearing on the determination of severity of punishment, but research indicates that this very factor is indeed an appropriate addition to the list of extra-legal variables that impact upon sentencing (Mazzella & Feingold,

1994). According to the results of a meta-analysis exploring the influence of defendant characteristics on jurors' judgements, one of the greatest advantages a defendant can have is simply being physically attractive (Mazzella & Feingold, 1994). The research examined 25 studies that assessed the effects of physical attractiveness on jurors' judgement, with mock jurors being less likely to find physically attractive defendants guilty than those who were physically unattractive (Mazzella & Feingold, 1994).

The current literature suggests that physically unattractive defendants are generally at a disadvantage with respect to both the likelihood of being found guilty and the severity of the recommended sentence (Mazzella & Feingold, 1994; Abwender & Hough, 2001). The research suggests that the attractiveness of defendants impacts on jury decisions because people have a belief that attractive persons possess more socially desirable characteristics, the 'what is beautiful is good' hypothesis (Dion, Bersheid, Walster, 1972; Abwender & Hough, 2001). Although attractive defendants appear to have an advantage within the courtroom, this only appears to be the case for certain crimes. Research has found that for crimes such as rape and robbery, attractiveness may not be an advantage but rather a disadvantage with defendants seen as using their attractiveness for personal gain (Abwender & Hough, 2001). The attractiveness factor can further be complicated by the victim's perceived attractiveness (Wuensch & Moore, 2004). Wuensch and Moore (2004) found that when jurors were asked to rate certainty of guilt of defendants they reported being more certain of guilt when the victim was attractive. This effect was reported to be more significant for female jurors than for males (Wuensch & Moore, 2004).

The strongest example within the research in which attractiveness influenced sentencing was found when examining sentencing recommendations in rape cases (Jacobson, 1981; Jacobson & Popovich, 1983). Jacobson (1981) and Jacobson and Popovich (1983) found that for the crime of rape the attractiveness of the victim was a significant factor in sentencing. Specifically, they determined that if the victim was viewed as attractive, the defendant was seen as more likely to be guilty than if the victim was seen as being unattractive (Jacobson, 1981; Jacobson & Popovich, 1983).

The attractiveness factor has also been identified as having a significant effect in cases of sexual harassment where Wuensch and Moore (2004), Egbert, Moore, Wuensch and Castellow (1992), Moore, Wuensch, Hedges and Castellow, (1994) and Wuensch and colleagues (2002) all found that defendants were found guilty less often when they were considered to be more attractive than the victim.

The literature exploring the impact of extra-legal factors on sentencing has been included as this is one of the main research questions asked within the current study. If these non-crime related factors are having an impact on the sentencing process, then research needs to identify them and also start exploring the reasons why these variables are taken into consideration, whether it is appropriate and also what actions can be taken to help reduce the phenomenon. The current research did not aim to address all of these questions however it did seek to identify some potential extra-legal factors by exploring the impact

of victim and participant age and gender as well as participant victim history, JWB and LOCB.

Individual Differences and Sentencing

Along with the impact of victim and defendant characteristics, there also appears to be an interaction between the characteristics of jurors and the sentencing processes. Juries are made up of members of the public and therefore research regarding their response to offenders and victims is useful when guiding research on public perceptions. The role of the jury in Australia is to determine guilt (in NSW there has been a proposal for jurors to provide sentencing recommendations) (NSW LRC, 2006), but in some states in America juries also have an additional role of determining whether the death sentence should be imposed (Nietzel & Dillehay, 1986; Penrod, 1990). It is important therefore to explore whether juror characteristics have an impact on sentencing. Commentators have suggested that personality factors typically do not predict more than 10 percent of the variance in jury verdicts, but other researchers claim that in certain cases these variables can account for as much as 30 percent of the variance (Nietzel & Dillehay, 1986; Penrod, 1990).

Authoritarianism, for example, has been found to correlate with verdicts in that jurors were more likely to vote for a conviction in mock jury trials and impose more severe sentences than less authoritarian jurors (Dillehay, 1999; Narby et al. 1993; Bray et al. 1978). In addition to the authoritarian characteristic, Julian Rotter (1966) also proposed

that people differ in their beliefs about whether their lives are controlled by internal factors, such as skill and effort, or external factors, such as luck, fate and the actions of others. In verdicts jurors seem to project their own orientations onto the behaviour of defendants, therefore jurors with an internal LOCB tend to perceive defendants as more responsible for their predicaments, especially when the evidence is ambiguous (Phares & Wilson, 1972). Hence they may be harsher jurors than those who hold external LOCB and who are more likely to attribute criminal acts to forces beyond the defendant's control (Phares & Wilson, 1972).

Interaction of Defendant Characteristics with other Variables

The impact of juror characteristics and defendant characteristics on juror judgements remains an area of concern for researchers. The most straightforward and widely accepted explanation for the way in which jurors view the defendant is called the 'similarity principle' (Brehm, Kassir, & Fein, 1999). Simply put, people prefer others who are similar to them. This principle is believed to govern how we select our friends and romantic partners in everyday life, and it also appears to explain why jurors may have a preference for certain defendants (Brehm et al. 1999) who they treat more favourably. In support of this theory, a number of empirical studies have found that mock juries hand down fewer guilty verdicts in cases where the defendant has similar characteristics to themselves (Griffitt & Jackson, 1973; Kerr, Hymes, Anderson, & Weathers, 1995; Stephan & Stephan, 1986). However this is only one side of a complex phenomenon, because research has also indicated that jurors can react negatively towards

defendants who are deemed to be similar if the defendant has acted in a shameful manner (Kerr et al. 1995). The current research seeks to move beyond the focus upon the defendant - juror interaction and look more closely at the juror - victim relationship in order to determine whether participant's view of a victim is as influential on the sentencing process.

Chapter 4: - Personal Beliefs and Their Impact on Sentencing

A number of theories have been put forward to explain the incidence of bias within our legal system (particularly with regard to views relating to defendants, victims and appropriate sentences), from cognitive factors among jurors to group decision making processes. It is important to explore relevant cognitive theory including attribution theory, the process of stereotyping, victim blaming, JWB and LOCB and their potential impact on participant views related to defendants and victims and appropriate sentences. This section will review these cognitive processes and how they relate to possible bias in sentencing and assessments of defendants and victims with a specific focus on the impact of JWB and LOCB. These two potentially influential internal processes have been linked to sentencing disparity and provide a framework for exploring and understanding sentencing outcomes.

Stereotyping

When forming impressions of others we use many strategies, one of which involves the development and utilisation of stereotypes. Impression formation and person perception are important aspects of social cognition (Schneider, Hastorf, & Erslworth, 1979). Asch (1946) argued that when forming impressions we first focus on central traits and then on peripheral traits. The impressions formed are impacted by a number of biases including the order of information presented (primacy and recency) and the type of information presented (positive versus negative) (Asch, 1946). The first and final information

presented has been found to have a larger impact on impression formation than other information presented hence the primacy and recency effect (Asch, 1946).

Negative information also tends to have a more significant impact on impression formation, as this information tends to attract our attention and assumes a disproportionate importance in sequential impressions (Fiske, 1980). We are generally biased towards focusing on negative information and once formed, a negative impression is much more difficult to change than a positive impression (Fiske, 1980). These negative impressions are believed to be more robust as the negative information that is used in its formation is unusual and distinctive and can often signify a potential danger to us as observers (Hamilton & Zanna, 1972; Skowronski & Carlston, 1989).

Stereotypes are impressions formed about other people, which are based upon assumptions about the personalities, attitudes and behaviours of those people arising from group membership (Fiske & Taylor, 1991). Hence it is possible to observe how attributions and attitudes relate to the formation of stereotypes and also how this information can result in bias towards members of an identified out-group such as a criminal defendant or a victim of crime (Fiske & Taylor, 1991).

Cognitive theory has demonstrated that stereotyping, and organising perceptions based on classification, is an essential component of human thought (Turner, 1996). The process of cognitive classification has as a basic premise that in order for people to function effectively in society we need to design strategies for simplifying the world around us

(i.e. classification systems) (Turner, 1996). The human brain is also disposed to making rapid judgements about the world around us based on limited information, a strategy that was developed in prehistoric times when it was necessary for acts such as hunting, gathering and effectively dealing with novel situations (Schneider, 2004). Cognitive side effects occur as a result of this categorisation process, including the fact that items that are grouped together appear more similar than they actually are (Turner, 1996).

Stereotyping has been defined as a generalisation about a person or group of persons that is developed when individuals are unable or unwilling to obtain all of the information necessary to develop fair judgements (Gronhman, 1990). These generalisations include beliefs about the characteristics, attributes, and behaviours of individuals or members of certain groups (Hilton & Von Hippel, 1996). Stereotypes have numerous forms of expression including racism, sexism, and anti-Semitism (Paul, 1998). Schneider (2004) described stereotypes as the “common cold of social interaction – ubiquitous, infectious, irritating, and hard to get rid of”. What Schneider (2004) also pointed out is that while stereotypes are often negative, untrue and unfair, they are also sometimes accurate and useful and may even be essential. From a cognitive perspective, it could be argued that stereotypes are mental shortcuts that we rely on in order to obtain information quickly and effortlessly (Khan, 2002; Lippman, 1922).

Stereotypes are argued to emerge from what social psychologist call in-group and out-group dynamics (Paul, 1998). William Graham Sumner is known for adopting the terms ‘in-group’ and ‘out-group’ to refer to social groupings to which a particular individual

belongs or does not belong, respectively (Ostreng, 2001). Humans, as with many other animal species, have a need to belong to a group (Paul, 1998). As villages, clans, and other traditional groupings have broken down, it is argued that we now develop our identities based on ambiguous classifications, such as race and class (Ostreng, 2001). We all want to feel good about the group we belong to and one way of doing this is to denigrate all those who are not in that group (Ostreng, 2001). In order to separate the in-group from the out-groups, we develop stereotypes that relate to the identified out-groups (Ostreng, 2001). Stereotypes are widely shared generalisations about members of these groups (Tajfel, 1978).

Larson (2004) argues that stereotyping others is not completely negative, even though it causes cognitive distortions. Stereotypes have been described as both a natural and invaluable part of how our minds process information in an efficient manner, and at the same time it is recognised that a stereotype is not likely to be universally true (Larson, 2004). It is the apparent lack of accuracy attributed to stereotypes that is concerning. Of specific concern is how members of the public form opinions relating to offenders and victims and how these stereotyped (potentially inaccurate) views may in turn impact upon sentencing expectations (Larson, 2004). In relation to sentencing of offenders, stereotype research appears to indicate that if the public develops a negative stereotype about an offender based on the limited or biased information available, this bias could potentially be expressed as preference for the defendant to be found guilty, receive a longer sentence or for them to generally receive a greater punishment (Khan, 2002). Research by Larson (2004), has explored the impact of stereotypes upon how people view the players

involved in a criminal proceeding. Larson (2004) argues that stereotypes affect both the coverage of the offender's trial in the media and the manner in which the public responds to the offender (Larson, 2004). In other research by Brigham (1971), participants were asked to play a part in a juvenile mock court. Their role was to evaluate and assign sentences to African American and Anglo-Saxon offenders, with the findings indicating a significant difference in both how the offenders were assessed in terms of their 'correctable potential' and also in the sentence lengths assigned, based on their race (Brigham, 1971). One of the reasons presented for these findings was that people had pre-existing race based stereotypical beliefs with regard to the offenders (Brigham, 1971). Other research has supported this finding, with Eberhardt (2006) demonstrating a correlation between perceptions of stereotypical racial features and death-penalty decisions.

In Eberhardt's (2006) research, participants were asked to review 44 photographs of African American, male defendants convicted of murdering Anglo-Saxon's, and were asked to report whether the men's appearance seemed stereotypically African American (rating each photo). The participant ratings were then correlated with the actual sentences received by the defendants to determine whether perceptions of stereotypical racial features were related to death-penalty decisions (Eberhardt, 2006). The results specifically indicated that in 58 percent of cases those identified as having more stereotypically African American features had been sentenced to death compared to only 24 percent of those convicts rated as having less-stereotypical African American features (Eberhardt, 2006). It should further be noted that a significant factor in this finding was

that the race of the victim and the sentencing disparity emerged only in cases involving Anglo-Saxon victims (Eberhardt, 2006). In cases of African American-on-African American homicide, there was no correlation between the perceived African American look of the defendant's features and the sentencing (Eberhardt, 2006).

This research indicates that stereotypes are not limited to offenders but may also apply to victims of crime, with people holding diverse stereotypical beliefs about different victims (Paul, 1998). For example, if the victim in a sexual assault case is identified as a nun, it is possible that our stereotypical beliefs would be different from those we associate with a victim who has been identified as a prostitute and hence the punishment we feel is appropriate would be modified to reflect these views about the victim. Jones and Aronson (1973) explored this very idea that victims are viewed differently. Their research categorised victims as either virgins, married or divorced and found that in a rape scenario, the virgins were viewed by participants as being the most respectable, followed by the married women and then the divorced women (Jones & Aronson, 1973).

Of even greater interest however is that the length of sentence was longest for the crime associated with the virgin followed by the married women and then the divorced women, indicating different levels of value for each victim group, and possible stereotypical pre-existing beliefs relating to the type of women who fall into each of these categories (Jones & Aronson, 1973). This research suggests that we hold stereotypical beliefs that relate to victims and that these stereotypes potentially impact on our beliefs relating to appropriate punishments for the offender (Paul, 1998).

This research is supported by other findings (Curry, Lee, & Rodriguez, 2004). The researchers utilised data from offenders convicted in Texas and found that offenders who victimized females received substantially longer sentences (4.179 years longer) than offenders who victimized males (Curry et al. 2004). They argued their results showed that victim gender affects sentence length with the researchers predicting that this disparity was due to chivalrous notions that females are stereotyped as being in need of protection (Curry et al. 2004). It was further argued that females are seen as less responsible or blameworthy for their victimization than males (Curry, et al. 2004).

Overall the research regarding stereotypes suggests that we all form stereotypes relating to others and that these stereotypes will impact how we view both a defendant and a victim in a criminal proceeding (Pervin & John, 1997; Curry et al. 2004; Paul, 1998; Jones & Aronson, 1973; Eberhauadt, 2006; Bringham, 1971; Larson, 2004; Khan, 2002; Ostreng, 2001). Furthermore, these stereotypes appear to correlate with our beliefs regarding an appropriate sentence for the offender (Pervin & John, 1997, Curry et al. 2004; Jones & Aronson, 1973). The cognitive categorisation process reportedly affects our judgements in that we often group people in random and arbitrary ways that create in and out groups, which in turn can lead to discrimination and prejudice (in the cases discussed, racial and gender based in and out groups) (Gronhman, 1990; Turner, 1996). Failures of those classified as in-group members are viewed as attributable to the situation, while failures of those classified as out-group members are attributed to the person (Gronhman, 1990). This cognitive categorisation process is seen to be

unconscious, meaning that it is possible that we are often not aware that a bias is affecting our judgements (Turner, 1996). Research has revealed an unsettling truth regarding stereotypes and bias and that is that the use of stereotypes is pervasive and unconscious and that if we are potentially unaware that we are being biased by our pre-existing stereotypical beliefs, that these beliefs may inadvertently impact on our decision making processes, including our decision relating to appropriate punishments for offenders (Paul, 1998).

Attitudes, Schemas, and Attributions

As stated previously, stereotypes and more general views relating to defendants and victims are partially influenced by people's attitudes, schemas and attributions, and more specifically, individuals use this information when forming causal attributions. An attitude is an association between an act or object and an evaluation (Eagly & Chaiken, 1992; Fazio, 1986). Attitudes are shaped by personal experience and are likely to influence action (Fazio & Zanna, 1981; Smith & Swinyard, 1983). There are three identified components of an attitude, including the cognitive component (belief), the emotion (valence) and behavioural disposition (Fishbein & Ajzen, 1974). Attitudes have been reported to predict behaviour. However those behavioural predictions that are based on attitudes are often inaccurate (as with stereotypes) (Ajzen & Fishbein, 1997). An attitude is strong if it is emotionally powerful, important to the person and held with considerable certainty (Petty & Krosnick, 1994).

Attitudes that we develop towards others are related to the formation of stereotypes and in and out groups and are also an aspect of individual schemas (Fiske, 1992). Schemas are the patterns of thought that organise human experience (Fiske, 1992; Taylor & Crocker, 1980). Semantic networks provide a convenient way of organising knowledge (Thorndyke, 1984). A schema is a cluster of knowledge that represents a general procedure, object, event, or social situation (Thorndyke, 1984). Schema theory refers to a collection of models that presume that we encode such knowledge clusters into memory and use them to comprehend and store our experiences (Thorndyke, 1984). Bartlett (1932) defined a schema as an active organization of past experiences in which the mind abstracts a general cognitive structure to represent many particular instances of those experiences.

Rumelhart (1980) argued that schemas are the building blocks of cognition and that these schemas are used to interpret sensory data, retrieve information from memory, organise action and solve problems. A schema is a cognitive structure that represents knowledge about a concept or type of stimulus, including its attributes and the relations among those attributes (Fiske & Taylor, 1991). Furthermore a schema is a set of interrelated cognitions (thoughts, beliefs and attitudes) that allow us to quickly make sense of a person, situation, events and places etc, on the basis of limited information (Fiske & Taylor, 1991). There are many types of schemas that all influence the encoding of new information, memory of old information and inferences about missing information (Abelson, 1981).

Schemas have been divided into three main types: person schemas, role schemas and scripts (Abelson, 1981). The person schema is individualised knowledge about specific people, the role schema is knowledge about individual roles (pilots, doctors etc) and scripts include schemas about events and how they should progress (going to dinner, movies etc.) (Abelson, 1981; Schank & Abelson, 1977). Self-schemas contain information about how we see our actual self (how we are currently), our ideal self (how we would like to be) and our 'ought' self (how we think we should be) (Tajfel, 1978). Stereotypes as previously discussed are a form of schema about the personal attributes of a group of people or another person that are typically overgeneralised, inaccurate and resistant to new information (Myers, 1993; Tajfel, 1978).

Stereotypes, like other schemas, save cognitive energy, simplify experience and allow individuals to categorise others quickly and effortlessly, which frees their conscious attention for other things that seem more relevant (i.e. trial information and evidence) (Gilbert & Hixon, 1991; Allport, 1954; Hamilton & Sherman, 1994). Prejudice (pre-judgement) is based on negative stereotypes (Dollard, Doob, Miller, Mowrer, & Sears, 1939). Prejudice is a defence mechanism motivated by anger, anxiety or feelings of low self-worth (Dollard et al. 1939). According to Olson and Zanna (1993), when people process information without much conscious thought, or while in a state of emotional arousal, they are more susceptible to stereotypic thinking. When conscious beliefs and values conflict with deep-seated, automatic negative stereotypes, people tend to defend against extreme positions or to defend against any vulnerability to racist thinking (Olson

& Zanna, 1993). They may thus respond with particular harshness towards members of minority groups who break the law and justify their behaviour on principle (Olson & Zanna, 1993).

From our attitudes, schemas and stereotypes we make attributions that infer the cause of mental states and behaviours in others and ourselves (Harvey & Weary, 1981).

According to Harvey and Weary (1981), whether a judge attributes the actions of a defendant charged with murder to malevolent intent, accidental mishandling of a gun, or a deprived childhood will have a tremendous impact on the sentence handed down.

Attributions can be both internal and external, with internal attributes relating to the person and external attributes relating to the situation (Harvey & Weary, 1981). In making attributions, people rely on three types of information consensus, consistency and distinctiveness (Kelley, 1973 - 1979).

Consensus information relates to how the average person would react to a situation, consistency is the extent to which the person always responds in the same way to the same stimulus and distinctiveness is whether the individual responds this way to many different stimuli (Kelley, 1979). When attempting to make attributions relating to the cause of behaviour, Kelley (1973) argues that people act like scientists in that they try to identify what factors co-vary with the behaviour and then assign that factor a causal role. The difficulty that occurs when making attributions is that any particular behaviour may result from numerous causes (Kelley, 1979). An outline of Kelley's model has been provided below see Figure 1.

Consistency		Distinctiveness		Consensus Attribution	
Low				Discounting (Search for different cause)	
High	+	High	+	High	External Attribution To Stimulus
High	+	Low	+	Low	Internal Attribution to the Person.

Figure 1. Kelley's Attribution Theory

A bias that reportedly occurs during the process of making attributions is the actor-observer effect (Nisbett & Ross, 1980). The actor-observer effect is the tendency to attribute our own behaviour to an external cause while attributing the behaviours of others to some internal mechanism (Nisbett & Ross, 1980). In addition to the actor-observer bias, it has also been identified that individuals consider others behaviour (out-group) as being more stable and predictable than our own (in-group) (Baxter & Goldberg, 1988). These attribution distortions reportedly act to protect and enhance our self-esteem or personal self-concept (Nisbett & Ross, 1980). The following table outlines how attribution bias occurs with regard to in and out groups see Table 3.

Table 3

Attributions and In and Out-Groups

Bias in Attributions	
In-group	Out-group
Positive behaviours = Personal factors (Internal Attribution)	Positive behaviours = Situational factors (External Attribution)
Negative behaviours = Situational factors (External Attribution)	Negative behaviours = Personal factors (Internal Attribution)

Table 3 provides an overview of how in-groups and out-groups make biased attributions both positive and negative.

Langer (1975) argued that a component of this tendency to attribute our own behaviour to external factors is highly related to an illusion of control, a belief that one has more control over one's world than one really has. The illusion of control reported by Langer, (1975) has been related to an individual's JWB, in that people with a high JWB generally feel that they have a level of control over their fate.

Just World Beliefs

Lerner (1980) stated that, "people have a strong need to believe that justice exists in the world and most of us assume that people get what they deserve in life" (p. 12). This need

to believe in a just world (JW) reflects more than just believing in a predictable world, it is also believed to exist so that people can go about their daily lives with a sense of trust, hope and confidence in the future (Lerner, 1980). JWB is believed to occur along an attitudinal continuum extending between the two poles of total acceptance and total rejection of the JW hypothesis (Rubin & Peplau, 1975). Rubin and Peplau (1975) state that a substantial amount of anecdotal and systematic evidence exists suggesting that people may view the world as a just place, where a person's merit and fate are closely aligned (Rubin & Peplau, 1975). Research has suggested that several factors may correlate with the presence of high JWB including individuals being more likely to admire fortunate people and derogate victims in order to maintain JWB, individuals being more religious and authoritarian, having a more internal LOC and also having more negative attitudes towards persons identified as being underprivileged (Rubin & Peplau, 1975).

The degree to which people believe that the world is a just place varies between individuals and across cultures (Furnham, 1991). Furnham (1991) compared twelve countries on their JWB and found that countries with greater property, wealth and power also tended to have strong JWB, whereas those with little or no power and wealth had unjust world beliefs. JWB reportedly helps people cope with disturbing or threatening events in the world (Carmona, 1998; Gorman, Neal, & Bollmer, 1998). In South Africa and India, the extremes of wealth and poverty are obvious and research has found that those in the high wealth areas had high JWB while at the other end of the spectrum, those with little or no wealth had high unjust world beliefs (Carmona, 1998). It has been argued

that JWB held by the wealthy and powerful may help reduce their internal feelings of guilt relating to the obvious injustices that surrounding them (Carmona, 1998).

Other cultural comparisons have found that Japanese students held significantly weaker beliefs in a JW than American students (Mahler, Greenberg, & Hayashi, 1981). It was argued that the cultural differences observed with regard to JWB were related to the ways in which western children are socialised (Mahler et al. 1981). Specifically it was suggested that western children are brought up listening to fairy tales that teach and reinforce popular myths about justice, punishment and the world in general (Mahler et al. 1981). The fairy tales emphasise the concept that rewards follow from virtue and that punishments follow from misbehaviour (Rubin & Peplau, 1975). Take for example the story of Cinderella, a young lady who works hard and is nice to everyone even the smallest of creatures (mice), and who is rewarded in life when she gets to marry the prince, or the story of Pinocchio where the wooden boy's lies are punished by his nose growing so everyone can see his deceit (Rubin & Peplau, 1975). A more obvious western story is that of Father Christmas with children being taught that he makes a list each year indicating which children are naughty and which are nice in order to determine whether they will receive a present of a piece of coal for Christmas. These stories have as a major component the belief that if you are good and do the right thing you will be rewarded because the world is 'just' (Rubin & Peplau, 1975).

An additional factor considered as being related to this cultural disparity is that western children are taught to idealise and respect authority (Mahler et al. 1981). Teaching

respect for authority has been found to correlate with JWB as power and prestige are linked with merit (Adorno, Frenkel-Brunswik, Levinson, & Sanford, 1950). It has been theorised that children from families in which uncritical respect for authority is encouraged will be especially likely to have a strong belief in a JWB (Adorno et al. 1950; Rubin & Peplau, 1975). The link between JWB and authoritarian principles has been related to both Piaget's and Kohlberg's cognitive-developmental models (Rubin & Peplau, 1975). Research supports this correlation between authoritarian principles and JWB with Rubin and Peplau (1973) reporting a correlation of $r = .56$, Lerner (1973) a correlation of $r = .20$ and Zuckerman (1975) a correlation of $r = .35$.

Research relating to JWB has also suggested that people who believe most strongly in a JW are also most likely to see victims as meriting their misfortune (Rubin & Peplau, 1975). Individuals with high JWB are reportedly more likely to derogate victims even when there is no reason to think that the victim is in fact responsible for his or her misfortune (Rubin & Peplau, 1975). The act of blaming a victim is an important consequence of the JWB and this link between victim blaming and JWB will be explored more specifically in the following section. Another interesting cultural comparison found that many major western religions appear to endorse a JWB (Rubin & Peplau, 1975). Religious teachings suggest that although just rewards may not occur immediately, they are ultimately inevitable, a belief that is consistent with the JW hypothesis (Rubin & Peplau, 1975). The notion that the wicked shall be punished and the righteous will be triumphant is fundamental to these religious teachings (Rubin & Peplau, 1975). Rubin and Peplau (1973) found that scores on the JWB scale were correlated, with participants'

reported frequency of church or synagogue attendance ($r = .42$) and that JWB scores also correlated with a belief in an active God ($r = .31$). Zweigenhaft, Phillips, Adams, Morse and Horan, (1985) found that strength of Catholicism was positively correlated with a JWB. The research relating to religious beliefs and the correlation with JWB is countered by research by Benson (1992) reporting no correlation between the two factors.

Finally, JWB have also been found to correlate with internal LOCB (Rubin & Peplau, 1975). When these two concepts are linked, one is faced with a belief that one can determine one's own rewards and punishments, rather than being at the mercy of external forces (Rotter, 1966). Rubin and Peplau (1975) found in their research that these beliefs were correlated ($r = -.44$) when comparing scores on their JWB scale to Rotters LOC measure. This correlation is one reason for including both factors within the current study.

A belief in a JW is reported to affect attitudes towards both victims and beneficiaries in society (Rubin & Peplau, 1975). It would be expected that those who hold strong JWB would admire and support successful people, including those who are in power and conversely would be hostile or unsympathetic towards victims of social injustice, especially in cases where their suffering cannot be easily alleviated (Rubin & Peplau, 1975). Research has supported this argument of a link between high JWB and a lack of sympathy towards the disadvantaged with Rubin and Peplau (1975) reporting that JWB correlated with derogating African Americans and women. Zuckerman (1975) also found a small non-significant correlation in his research between JWB and the belief that

African Americans and women are not responsible for their inferior state. It is felt that derogating a victim or denying their suffering is one method for maintaining a JWB (Rubin & Peplau, 1975).

The Victim Blaming Phenomenon

Victim blaming is a simple term for an extremely complex phenomenon whereby a victim in a crime scenario is assigned a degree of responsibility for the situation in which the offence was committed (Brogdon, 2003).

“People want to believe that they live in a world where good things happen to good people and bad things happen to bad people. The idea that a person has suffered undeservedly is so threatening that people often feel compelled to resort to condemning the injured plaintiff. People want to believe they live in a predictable world over which they have some control. Moreover, when jurors are confronted with a severely injured plaintiff, they may feel anxious and blame the plaintiff’s irresponsible behaviour for the discomfort. Therefore, the more severely a plaintiff is injured the greater the likelihood jurors will engage in defensive attribution or rely on this notion of a ‘just world’” (Wenner & Cusimano, 2000 p. 3).

If something bad happens to someone, we might sympathise but we may also believe (on some level) that the person must have deserved or even facilitated the negative

occurrence through some personal act (Wrightsman et al. 2002). The concept of an innocent victim is not consistent with a belief in a JW. After all how can an innocent person be harmed if the world is 'just', they must have done something wrong because if they truly are innocent then that raises concerns about our own fate and lack of control over it (Wrightsman et al. 2002; Sabini, 1995). If an innocent victim exists, then this would force us to accept that the world is not 'just' (Wrightsman et al. 2002). Seeing someone else suffer results in a level of distress for the observer and the observer then blames the victim for causing the distress, which is irrational but unfortunately occurs (Sabini, 1995). In reality, the situation caused the secondary distress and the victim is not to blame for their suffering, but the need to preserve the belief in a just and stable world is strong (Sabini, 1995).

Preservation of the JWB is one reason why victims are often attributed a degree of blame for their situation (Sabini, 1995). Onlookers therefore decide that the victim is in someway undesirable or deserving of their fate in order to maintain their JWB (Sabini, 1995). The blaming of the victim often happens when observers are unable to intervene on behalf of the victim (Sabini, 1995). People who have strong JWB have also been found to be more conventional people who subscribe to traditional religious beliefs and who have also been found to be more likely to endorse harsher punishments for offenders (Sabini, 1995).

Research has previously assumed that when jurors are presented with a victim they identify with, they will experience a feeling of sympathy for the victim and seek

retribution from the offender (Sarnacki, 2002). This argument has been refuted recently with the discovery that rather than jurors feeling sympathy for victims they identify with, they focus their attention on what the person did or did not do to prevent the situation or the offence (Sarnacki, 2002). This thought process allows them to distance themselves from the victims while simultaneously supporting their assumption that they would have reacted differently under the circumstances and prevented the situation (Sarnacki, 2002). Brogdon (2003) termed this phenomenon defensive attribution (blaming the victim) whereby in order for a juror to distance themselves psychologically from the victim and from the chances of suffering a similar fate, they place a level of blame onto the victim.

It is argued that we generally need to believe in a just, stable and predictable world and we will attempt to maintain this belief (Brogdon, 2003). When a person is hurt or killed, that event threatens this belief (Brogdon, 2003). As a result cognitive dissonance can be created in which two psychologically inconsistent beliefs are held simultaneously (Brogdon, 2003). Because this dissonance is unpleasant, we are strongly motivated to reduce it (Brogdon, 2003).

Defensive attribution (victim blaming) is one way of reducing this unpleasant feeling (Wenner & Cusimano, 2000). During the process of defensive attribution, we reduce the dissonance between our JWB and the suffering of an innocent victim by derogating the victim, reinterpreting the injury as victim caused, or by minimizing the extent of the injury (Brogdon, 2003). This process is argued to reduce our fear that we could suffer a similar fate (Brogdon, 2003). A growing body of research confirms that jurors who are

similar to, or who identify with the plaintiff, paradoxically tend to place more blame on him or her than do jurors who are not similar this has been termed the ‘identification effect’ (Wenner & Cusimano, 2000; Brogdon, 2003; Chaikin & Darley, 1973). Chaikin and Darley (1973) used the term ‘personal relevance’ to describe this situation of identifying with the victim, where a person views himself or herself as like in some way to the person in the situation they are presented with, in this case a victim of a crime.

Individuals with strong JWB are reportedly challenged when they encounter a victim of random misfortune (Kleinke & Meyer, 1990). The individual wants to believe that the world is safe and just even when evidence suggests that the person is not responsible for their fate (Kleinke & Meyer, 1990). Kleinke and Meyer (1990) suggest that when people (jurors) with a high JWB are presented with an innocent victim they will do one of two things, either they will try to eliminate the suffering of the innocent victim or else they will derogate them for their fate. Since it is impossible to reverse the crime and thus relieve the victim’s suffering, the victim is often subjected to derogation and blame (Kleinke & Meyer, 1990). By derogating the victim the onlooker is able to maintain their JWB (Kleinke & Meyer, 1990).

It is important to note that having a JWB does not automatically suggest that the observer will derogate the victim they have been presented with (Bollmer, 1998). Lerner and Miller (1978) suggest that at least three factors must be present in order for a victim to be derogated by an outsider. First, the victim must be seen as an innocent victim in order for derogation to occur (Lerner & Miller, 1978). Second, victims that are viewed as highly

attractive or high in status are derogated less than unattractive victims or victims of low SES (Lerner & Miller, 1978). Finally, belief in a JW will reportedly not lead to victim derogation when the observer sees some similarities between themselves and the victim, contradicting research relating by Wenner and Cusimano (2000), Brogdon (2003) and Chaikin and Darley (1973), which suggests that victim identification is a contributing factor in cases of victim derogation (Lerner & Miller, 1978).

In addition to Lerner and Miller's (1978) findings, Kleinke and Meyer (1990) also found when examining the responses of female participants that regardless of the presence of a high JWB, they were found to generally not blame or derogate victims in cases of rape. For men, however, their findings suggested that JWB was strongly correlated with victim derogation. It was reported that the lack of victim derogation in rape cases by women was related to women identifying similarities with the victim simply by merit of their gender contradicting the victim blaming research (Kleinke & Meyer, 1990). The finding that males blame the victim more than females has been supported by research conducted by Cann, Calhoun and Selby (1979), Field (1978), Kanekar and Vaz (1988), Luginbuhl and Mullin (1981), Smith, Keating, Hester and Mitchell (1976) and Thornton, Ryckman and Robbins (1982). Other studies by Acock and Ireland (1983) and by Shotland and Goodstein (1983) reported no observer sex differences.

The contradictory findings concerning the gender of the observer and victim blaming may be due to the fact that gender is only moderately correlated with attitudes, which are more directly related to victim blaming, such as beliefs relating to traditional sex roles

and being conservative (Finn, 1986; Kristiansen & Giulietti, 1990; Thorton et al. 1982).

In addition to gender difference in victim blaming, preliminary research has also suggested that there may be an age difference, with older women being more likely than younger women not only to blame the victim in a wife assault case, but they are also reportedly more likely to have conservative sex role attitudes (Nelson, 1988).

Overall, it has been argued that JWB can be challenged by the presence of an innocent victim and that when these fundamental beliefs are challenged one way in which they can be restored is through derogation of the victim (Pervin & John, 1997). Placing a level of blame onto the victim makes it appear as though the victim is getting what they deserve and that the world is just after all (Bollmer, 1998). The research also indicates that people with high JWB will be more likely to derogate a victim. This may be reduced, however, when the observers are able to help the victim alleviate their suffering with relative ease and when helping the victim does not run counter to firmly entrenched social attitudes (Rubin & Peplau, 1973). These JWB have been found to be relatively stable over time and across situations and these beliefs may be a significant factor that underlies the differences in how people react to victims and groups both inside and outside of the experimental lab (Rubin & Peplau, 1973).

The current research study has been directed by these previous research findings regarding the possible influence of observer gender, age, just world beliefs (Kleinke & Meyer, 1990; Lerner & Miller, 1978; Cann et al. 1979; Field, 1978; Kanekar & Vaz, 1988; Luginbuhl & Mullin, 1981; Smith et al. 1976; Thornton et al. 1982; Finn, 1986;

Kristiansen & Giulietti, 1990; Nelson, 1988) and the indication that JWB relate to the allocation of harsher punishments (Sabini, 1995).

Defensive Attribution Theory

This process of distancing oneself from the victim has been explained using defensive attribution theory. Defensive attribution theory involves determinations of responsibility and cause within a scenario (Wenner & Cusimano, 2000). To develop attributions of responsibility, individuals must interpret behaviour in the social context within which it occurs, and then make judgements regarding causal attributions (Wenner & Cusimano, 2000). These judgements concern the individual's level of accountability or answerability for the events in which they have been involved (Workman, 1999). It is important to understand that an attribution of 'cause' does not necessarily lead to an attribution of 'responsibility' (Workman, 1999).

Date rape has been used by Workman (1999) to provide an example of how different levels of attribution occur within a crime scenario. It is suggested that how a woman is dressed may be viewed as an 'attributable cause' for date rape (Workman, 1999).

Following from this, a woman is seen as 'responsible' for her choice in clothing, however this does not logically lead to external viewers holding the women 'responsible' for her date's behaviour (Workman, 1999). In this scenario, it is clear that people can examine a crime and assigns a level of cause and responsibility to both the victim and the perpetrator (Workman, 1999). The underlying principle is that as human beings we like

to shield ourselves from the thought that someone else's misfortune may become our own (Workman, 1999). It was Mandel (2000) who said it best when he stated that "Jurors are frightened by the prospect that they have no control over their fate, and so they will unconsciously disassociate themselves from the plaintiff and his or her pain, suffering, misery and injury. At no level do they want to bring that tragedy into their own lives, the pain is too real and the fear too great" (p.3). These jurors feel a need to separate themselves from the plaintiff's plight (Mandel, 2000).

Attribution theorists have demonstrated considerable success in predicting how people will assign blame across a variety of settings (Hillier, 1993). However these models have been less successful with regard to explaining causal attributions and blame in social situations in which a passive victim is clearly identifiable (Hillier, 1993). Attribution theory suggests that victim blame is directly related to the level of identification with the victim by the observer, and that as the result of a defence mechanism the observer attributes blame to the (similar) victim in order to protect themselves from a similar fate. Currently this theory has been met with mixed success (Hillier, 1993).

Beyond the impact of variables that relate to people identifying with the victim, research has also suggested that the circumstances or the events surrounding the crime are highly influential in how people interpret a situation (Chaikin & Darley, 1973). Chaikin and Darley (1973) explored the concept of 'situational relevance' within criminal scenarios, and suggested that the potential consequences of an event, combined with the probability that it will occur to an individual, will impact upon how much responsibility they will

assign to the innocent victim. If a person thinks that they may someday find him or herself in similar circumstances and that the consequences related to that situation would be negative, then external viewers may attribute a higher level of responsibility to the victim, presumably to allow the self to avoid the proposed threatening event (Shaver, 1970).

After reviewing the research, it is apparent that attribution theory seems to be highly congruent with the theory related to JWB. In a JW, there are no victims of crime for it is only the guilty that are punished. Therefore if you fall victim to an offender you must have in some way contributed to your fate (Hillier, 1993). If you are responsible for your fate, then it logically follows that you have a level of responsibility with regard to the events of your life, even the negative ones (Hillier, 1993). The counter argument would therefore be that if the world is not just, then you are not responsible for all events that occur within your life cycle and as such you are not automatically responsible for the situations in which you find yourself (attribution of responsibility is reduced) (Hillier, 1993).

With regard to sentencing of offenders, it would be assumed from these theories that if you have a high JWB, you will attribute a level of blame to the victim, which will be demonstrated in a reduced sentence for the offender (Pervin & John, 1997). Attribution theory further suggests that your level of identification with the victim will also impact upon the sentence that you deem appropriate, in that the more you identify with the victim the lower the sentence for the offender due to the increased level of responsibility

placed upon the victim (Pervin & John, 1997). Again the counter argument would suggest that if you do not believe the world is just, you would attribute less blame to the victim reflected in a longer sentence and again how much you identify with the victim, will impact upon on how much you attribute responsibility to them (Pervin & John, 1997). Consequently this will impact upon the length of sentence you apply (decreasing the sentence as you identify with the victim but increasing the sentencing as you attribute responsibility to the offender) (Pervin & John, 1997).

Generally the research suggests that when we are exposed to a criminal event with both a clearly identified victim and perpetrator, a number of internal cognitive mechanisms are initiated (Wenner & Cusimano, 2000). These mechanisms are influenced by our individual belief structure (schemas), and ultimately impact upon the way in which we interpret events and assign punishments (Wenner & Cusimano, 2000). The simple concept that we are all individuals who view the world and its events differently is not original, but often it seems that the impact that these individual beliefs and thought processes have on serious decisions such as sentencing is underestimated (Wenner & Cusimano, 2000). JWB, issues of attribution, beliefs about LOCB, and the existence of confirmation biases have all been identified as potentially having an impact upon how we view criminal situations and the players involved within them (Wenner & Cusimano, 2000). Therefore the personality aspect of JWB has been included in the current project to explore whether JWB held by the participants has a significant effect on the sentences they recommended for criminal offences including a crime scenario in which the victim characteristics have been varied. The results may provide an indication of whether

participants of similar age and of the same gender as the victim sentence more leniently, which may in turn indicate whether victim identification is occurring and whether victim blaming is influencing their decision making.

Locus of Control

The concept of LOC is part of Rotter's (1966, 1982) social learning theory of personality and represents a generalised expectancy concerning the reasons for rewards and punishments in one's life (Pervin & John, 1997; Reitzel & Harju, 2002; Rotter, 1966). At one extreme are people who believe in their ability to control life's events (internal LOC) and at the other extreme are people who believe that life's events, such as rewards and punishments, are the result of external factors such as chance, luck, or fate (external LOC) (Pervin & John, 1997; Reitzel & Harju, 2002; Rotter, 1966).

LOC is based on social learning theory, which has as one of its aims to explain why people and animals behave in the way they do (Pervin & John, 1997). In order to understand LOC it is important to first understand social learning theory (Pervin & John, 1997). The four main components of social learning theory include 1) behaviour potential, 2) expectancy, 3) reinforcement value and 4) psychological situation (Rotter, 1966). The 'behaviour potential' refers to the likelihood of engaging in a particular behaviour in a specific situation (Rotter, 1966). In any given situation there are multiple behaviours that a person could elect to engage in, and for each of these possible behaviours there is a subsequent 'behaviour potential' (likelihood that the behaviour will

occur) (Rotter, 1966). A person will exhibit the behaviour that carries the highest or greatest behavioural potential (Rotter, 1966). 'Expectancy' refers to the subjective probability that a given behaviour will lead to a particular outcome or reinforcer (Rotter, 1966). High or strong expectancies result in the individual being confident that the behaviour will result in the desired outcome (Rotter, 1966). Low expectancy means that the individual believes it is unlikely that his or her behaviour will result in reinforcement (Rotter, 1966). If outcomes are equally desirable, we choose the one that has the greatest likelihood of paying off (resulting in reinforcement) (Rotter, 1966). Reinforcement value is related to the strength of the reinforcement received and the psychological situation is related to the overall context of the situation (Rotter, 1966).

LOC refers to an individual's generalized expectations concerning where control over subsequent events resides (Pervin & John, 1997). Rotter's theory argues that behaviour is motivated by the 'empirical law of affect', and the 'law of effect' states that people are motivated to seek out positive stimulation or reinforcement and to avoid unpleasant stimulation (Rotter, 1966). Rotter combined behaviourism and the study of personality without relying on physiological instincts or drives as a motivating force (Rotter, 1966). The main idea in Rotter's social learning theory is that personality represents an interaction of the individual with his or her environment (Rotter, 1966). Rotter argued that different people interpret the same situation in different ways because situation interpretation is a subjective experience (Rotter, 1966).

LOC can be theoretically envisioned on a continuum where opposing points are considered completely internal and completely external (Reitzel & Harju, 2002). In theory neither extreme is desirable. An extremely external locus of control orientation would lead to higher levels of subjective stress, a failure to use effective problem-solving abilities and a tendency to believe that action will not influence events outcomes (Mackenzie & Goodstein, 1986; Pugh, 1991). Conversely those with an extremely internal orientation would take blame for events that really were out of their control and attribute failure to personality factors (Strickland, 1978).

LOC is considered a stable personality trait and represents a trait that has been developed and reinforced through numerous interactions with the environment (Goodstein, Mackenzie, & Shotland, 1984; Murphy, 1990). Put simply, if people feel that they have control over the events that happen to them, they have an internal LOC (Goodstein et al. 1984; Murphy, 1990). Those who have an external LOC feel as though they have little control of what happens and that luck or fate governs most of the events in their lives (Goodstein et al. 1984; Murphy, 1990). The notion of LOC as a personality construct has been said to be somewhat misleading as theory and research indicates that LOC is largely learned (Marsh & Richards, 1987). Seligman's learned helplessness theory is an example of how through prolonged circumstances without control people can develop an external LOC and that this development is in effect an adaptive response to the situation, a learned response (Marsh & Richards, 1987). Seligman explained in his analysis that he viewed controllability as a function of two parameters, firstly the probability that an event will occur in the presence of an action and secondly the probability that the event will occur in

the absence of the respective action (Otterman, 1999). Controllability, it has been argued, is linked to a lack of effort, anger, punishment and a reduced willingness to help others (Otterman, 1999).

Zimbardo defined LOC as a belief about whether the outcomes of our actions are contingent on what we do (internal control orientation) or on events outside of our personal control (external control orientation) (Marsh & Richards, 1987). LOC however may not be consistent across cultures, with researches suggesting a cultural component (Otterman, 1999). Specifically, research has indicated that African Americans are more external in their LOC than Caucasian Americans (Vecchio, 1982). Other research exploring Japanese and American students found that compared to American students, the Japanese students were found to have a more external LOC while the American's conversely had a more internal LOC (Mahler et al. 1981).

Other research has indicated that not only race but also gender and socialization practices within cultures impacts upon the development and expression of LOCB (Otterman, 1999). Mamlin, Harris and Case (2001) found some general trends with regard to LOC, including that males tended to be more internal than females, that as people age they become more internal and that the higher people are up in an organizational structure the more they tend to be internal in their LOCB.

An individual's LOCB has also become known as an attribution (Marsh & Richards, 1987; Harvey & Weary, 1985). Attribution refers to how people explain events that

happen to themselves and others. Different kinds of attribution styles have been found to characterise and explain why people react quite differently but predictably to events and how they explain the cause of those events (Daly, 1996; Weiner, 1980; Marsh & Richards, 1987). The basic or ultimate attribution error is that people tend to exhibit a self-serving bias when it comes to explaining behaviour (Miller, Brickman & Bolen, 1975). People make internal attributions about themselves when they succeed, internal attributions about others when they fail, external attributions about themselves when they fail and external attributions about others when they succeed (Scott, 1997; Daly, 1996). Weiner (1980) reported that attribution theory assumes that people try to determine why people do what they do i.e. 'attribute causes to behaviour'. Attribution has been defined as a three stage process 1) the person must perceive or possibly observe the behaviour, 2) the person tries to figure out if the behaviour was intentional and 3) the person tries to determine if the person was forced to perform that behaviour (Weiner, 1980). Attribution theory has already been explored however this research highlights the link between attribution theory, LOC and social learning theory.

Attribution theory has not only been linked with LOC but research has also suggested a link between LOCB and JWB. Furnham and Procter (1989), for example, found a positive correlation between LOCB and JWB such that both provide individuals with a sense of control over their environment. Rubin and Peplau (1973) also reported a correlation between JWB scores and scores on Rotter's LOC scale. Belief in a just world as previously stated, allows for a feeling that one has a level of control over and certainty regarding one's life events and a belief that misfortune can be avoided by controlling and

monitoring one's behaviour (Meyerhoff, 2004). Hence if you believe that you have control over your life and life circumstances, then in a JW you should be able to avoid negative situations (Meyerhoff, 2004). LOC theory suggests that if you have a strong 'internal' LOC you believe that your life circumstances are under your control and your success or failure are your own fault (Meyerhoff, 2004). Alternatively, if you have an 'external' LOC you hold a belief that your life situation is influenced by factors such as luck, fate, circumstances or the actions of others (Meyerhoff, 2004).

In relation to criminal acts, this theory would suggest that if you have an internal LOC you could view the victim as being somewhat responsible for their situation, while someone with an external LOC would more easily view a victim as being a casualty of bad luck or misfortune (Bem, 1994). A combination of these factors would suggest that if the world is just and we are able to control and monitor our behaviour, we should be able to effectively avoid unfortunate events, but if the world is unjust and we are all subjected to the unpredictable influences of fate and the decisions of others, then this would suggest that we are all potential victims regardless of our actions to prevent such a scenario (Burger, 1993). The other combinations would be that the world is viewed as just while holding an external LOC, resulting in a view that if we do the right thing (are good) we might increase our chances of avoiding bad luck, but at the same time we are still at the mercy of others (Burger, 1993). If the world is unjust and we have an internal LOC, then this would suggest a belief that the world is not always a nice place and people do not always get what they deserve, while also believing that we are in some ways responsible for the situations in which we find ourselves (Bem, 1994).

Differences in beliefs about defendants and victims, appropriate punishments (sentences), or the appropriate level of blame to be attributed to parties within a criminal proceeding are key factors for juries to consider and are also all potentially influenced by the processes that have been discussed, including the impact of LOCB, JWB, defensive attributions (an identification with a victim and desire to separate oneself from them), attributions of cause or responsibility, and situational identification. Regardless of whether it is one of these specific components or a combination of all of these factors, blaming the victim or, more specifically, disproportionately attributing blame to them as opposed to the offender in a criminal situation, is problematic and may negatively impact upon the sentencing process. The current research aims to explore the impact of internal belief mechanisms (LOCB and JWB) upon the sentencing recommendations of participants in order to explore whether these factors are influencing public perceptions and if so how influential are these beliefs upon the overall sentences recommended for defendants when the victim in the crime scenario differs.

Chapter 5: - Research Overview

The presence of bias as a result of extra-legal variables is clearly identifiable within the Australian legal system, with research highlighting the many ways in which bias can inadvertently enter into the legal process and in particular, into sentencing (Nagel & Weitzman, 1972; Ferraro, 1997; Turow, 2003; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Turner, 1996; Mazzella & Feingold, 1994; Bergeron & McKelvie, 2004; Champion, 1987; Abwender & Hough, 2001; Dillehay, 1999; Narby et al. 1993; Bray & Norbert, 1979; Phares & Wilson, 1972). The majority of research has focused on the bias jurors contribute to the legal system, but it is important that we do not discount the other important factors. Sarnacki (2002) reminds us that lawyers and judges being human themselves suffer from the same tendency towards biased decision-making. Individual bias will present itself within all trials in some format, highlighting the need to identify and understand some of the appropriate and inappropriate biases, in order to try to prevent inappropriate biases from resulting in unfair sentences.

A basic principle of the Australian legal system is the concept that the severity of the crime committed should be directly proportionate to the severity of the punishment assigned (Bohm & Haley, 2002). To determine if this is in fact the case within the legal process, Bergeron and McKelvie (2004) included crime severity as a component within their research on sentencing. Their research-involved participants reading a vignette of a crime involving either murder or a theft in which the perpetrator was of varying age (Bergeron & McKelvie, 2004). The research demonstrated that participants assigned a

harsher sentence for murder than for theft, consistent with popular beliefs (Bergeron & McKelvie, 2004). This research has also been supported by a previous study by McKelvie and Bergeron (2003), which found that the crime of murder was given sentences more severe than for the crime of theft.

Other research by La Pre (2006), McKelvie and Coley (1993) and Wuensch, Chia, Castellow, Chuang, and Cheng (1993) also supported the findings that in mock jury research where scenarios are utilised, participant's assigned greater punishments for more severe offences. In La Pre's (2006) research, he found that the crime of sexual assault was sentenced more severely than the crimes of burglary and theft. In McKelvie and Coley's (1993) research, they reported that punishments assigned by participants were more severe for the crime of murder as compared to robbery and in Wuensch and colleagues' (1993) research, females were found to be sentenced more harshly for the crime of burglary than for the crime of swindling.

This research is consistent with the view that not only should the legal system endorse punishments that are more severe for more severe offences, but Bergeron and McKelvie's (2004) research also suggests a higher level of punishment is associated with offences that were determined to be intentional or deliberate as compared to unintended, accidental acts. Research by Bergeron and McKelvie (2004) found that participants rated crime vignettes that described the offence of murder as being deserving of a more severe punishment than for the theft vignettes. This finding is consistent with that of McKelvie and Coley (1993) and McKelvie and Bergeron (2003). This research led to the crime of

manslaughter being used in the current study as it was felt that the majority of the general population would rate this as a severe crime. The current study examined sentencing lengths for crime definitions to explore whether participants sentence lengths varied in response to a variety of different crimes. Paired T-tests were completed to compare participant sentencing recommendations across the 10 different crime definitions. A MANCOVA was completed to assess whether the sentences recommended differed across the ten crime definitions for different participants. Participant gender and victim history (IV's) were compared for the sentence lengths recommended for the ten crime definitions (DV). Participant age, just world beliefs and locus of control beliefs were included within this analysis as co-variates.

In Queensland the crime of manslaughter carries a maximum life sentence, which is defined as a minimum of 15 years of imprisonment without possibility for parole (Potas, 1998). This maximum sentence allows for a comparison between the sentencing recommendations made by participants within the study and the sentence allowable within the Queensland courts. Ten one-sample t-tests were completed to compare the average participant sentencing recommendations for the crime definitions (IV) and the average sentence lengths made within the Queensland courts (DV).

This research does not seek to look primarily at sentencing for a specific offence but rather at whether modifying the variables of victim age and gender will significantly impact on the length of sentence participants allocate. If the sentences clustered around a particular length as a result of the crime selected, it would be difficult to determine

whether the victim characteristics had an effect. Although the crime of manslaughter is consistently defined as a severe crime, this does not automatically translate into consistency with regard to severity of sentence (Bohm & Haley, 2002).

The sentencing continuum of 0 to 99 years utilised within the current study was selected for two main reasons, 1) that it is consistent with previous research meaning that this study will be comparable to previous research within this area and 2) because previous research has found that the use of this 0 to 99 year continuum has been more effective in obtaining significant results as compared to a dichotomous guilty or not guilty option.

The current research also builds upon previous studies that have identified bias with regard to defendant, victim and juror characteristics (Nagel & Weitzman, 1972; Ferraro, 1997; Turow, 2003; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Turner, 1996; Mazzella & Feingold, 1994; Bergeron & McKelvie, 2004; Champion, 1987; Abwender & Hough, 2001; Dillehay, 1999; Narby et al. 1993; Bray & Norbert, 1979; Phares & Wilson, 1972) by exploring whether information about the age and gender of a victim has a significant impact on sentencing recommendations. The study further seeks to explore whether participants age, gender, victim history, JWB or LOCB make a difference to sentencing recommendations. A 5 x 2 univariate ANCOVA was completed to analysis this interaction with the sentence lengths recommended (DV) being compared to victim age and victim gender (IV's). Participant age, just world beliefs and locus of control beliefs were also included as co-variants. In addition three t-tests were also completed to determine whether there was a significant difference in sentence lengths recommended

for the crime definition (IV) and the sentences recommended for the crime scenario (IV), to compare participant gender (IV) and sentencing recommendations for the crime scenario (DV) and to compare participant victim history (IV) and sentencing recommendations for the crime scenario (DV).

If JWB or LOCB are related to sentencing differences, then this may guide future research by indicating a potential relationship between personality characteristics and sentencing discrepancy. The additional participant characteristics (age, gender, and victim history) have been examined in an attempt to identify any potential links between juror demographics and differences in sentencing recommendations. This information may provide some insight into how different participants reacted to the victim for example whether participants who are of similar age and the same gender as the victim in the scenario sentence more harshly (victim blame).

All of the factors discussed (victim characteristics, participant characteristics, just world beliefs and locus of control beliefs) have been selected because previous research has identified them as factors that may influence sentencing decisions, and further because the current literature is limited with regard to understanding the impact of these variables upon the sentencing process. It is hypothesized that these identified extra-legal variables will be related to significant difference in the sentences recommended by participants.

Chapter 6

Research Design

Participants

The participants within this research project were required to be of 18 years of age and able to provide informed consent to participate. The researcher sought to obtain a minimum of 20 participants per scenario condition, resulting in an overall minimum of 200 participants. Participants were recruited from the general Cairns population and also the James Cook University Cairns population.

Participants were recruited via poster style flyers, through university lectures and tutorials and through word of mouth. A completely random sample using random selection from a source such as an electoral role would have been ideal for this style of research, however completely random selection could not be undertaken in this research project due to time and financial constraints. A community-based sample was included in an attempt to obtain a research population that was more representative of a normal jury. A university population alone may potentially have failed to accurately represent the beliefs of the general community. The community of Cairns was targeted for the research project. Participants from other areas were not excluded, and so the geographic area sampled went beyond the commonly recognized boundaries of the community.

The Cairns area as at the 2001 census had the following profile. The population was reported at 131,079 persons. Of these people, 107,528 were residents, 12,411 were Australian visitors from other areas, and 11,142 were overseas visitors. Of the resident population, 50.2 % were female and 49.8 % were male. An age by gender breakdown has been provided in Appendix 'U', along with education and income information. Overall, the majority of the Cairns population were aged between 0 to 14 years. For the Cairns population the average individual income bracket was \$15,600 to \$31,999. Within the population of Cairns, 7.6% of people identified as being indigenous. Within the indigenous population, 51.8% identified as being Aboriginal, 32.1% identified as being Torres Strait Islander and 16.1% as both Aboriginal and Torres Strait Islander.

Participants were provided with general research information on an 'information sheet' (see Appendix G) including the time required to complete the task, instructions for completing the research materials (see Appendix H), and including specific information relating to the content of the crime scenario. Participants could cease participation at any time if they felt that the crime scenario might result in personal distress.

Participants provided informed written consent prior to completion of the questionnaire and the testing materials (see Appendix I). Participants provided demographic information without identifying themselves.

Pilot Study

Participants

The pilot study involved 10 volunteers over the age of 18 years. These volunteers participated with the understanding that their results would be used within the study's data analysis if no significant changes were made to the structure of the assessment materials or the participation process.

All participation was voluntary and subjects were advised that they were able to withdraw their consent and cease participation at any time. Participants were provided with the contact details of the research supervisor should they experience distress as a result of their participation in the study. The information sheet contained contact details for services in the Cairns area in case the participants experienced distress and did not wish to access the services of the university.

Participants were recruited using the same process used within the main study. The participants in the pilot study were given the same research materials as used within the formal study. They were informed that the participation was for the pilot study and that their results may or may not be used as a component of the final analysis.

Procedure

Participants were asked to complete a brief questionnaire (see Appendices A to I) relating to crime definitions and sentencing recommendations and asked to answer a series of questions relating to sentencing recommendations. Participants also completed two scales: the Locus of Control Scale (see Appendix E) (Rotter, 1966) and a Just World Belief Scale (see Appendix F) (Rubin & Peplau, 1975).

Benefits for Participants

Participants were able to obtain their individual results if they so desired by using a numerical identifier, which each participant was instructed to keep should they wish to obtain their individual results.

Welfare of Participants

A number of procedures were implemented to ensure the welfare of participants including:-

- Participants were required to be of minimum age 18
- Information and instructions were provided to participants via an information sheet provided prior to completion of informed consent forms.
- Informed consent was obtained prior to

- An instruction to cease participation should the participant feel the information would result in distress, were included in the information sheet and also within the questionnaire prior to the scenario being presented.
- Participants were also provided with the contact details of the researcher, and the research supervisor for situations where participants experience distress or required some form of debriefing.
- Participants were provided with a short list of community service contacts should they be required.

Confidentiality

All participant information including demographic information and assessment data remained confidential. This was achieved through the use of a numbering system. All participants were provided with a research identification number. This number was provided on the questionnaire, testing materials, and information sheets. It was, however, excluded from the consent forms. Participants were instructed to retain a copy of this identification number should they wish to obtain their individual research information. Participants were informed that this number was not linked to their identifying information. All research information is currently being stored in a locked filing cabinet at a private residence, with consent forms stored separately from research materials.

Materials

The questionnaire utilised within this project was developed for this study by the researcher. Previous studies by Rachlinski and Jourden (2003) and Abwender and Hough (2001) provided the foundations for the questionnaire used within the current research.

The first section of the questionnaire collects demographic information only (see Appendix A). The specific questions targeted included participant gender, age and victim history. This demographic data was necessary for planned analysis exploring whether the gender, age and victim history of participant's affects their sentencing recommendations.

The second section of the questionnaire includes a list of definitions relating to criminal acts (see Appendix B). This list of definitions has been provided so that all participants have a similar base of knowledge regarding the target offences prior to making any sentencing recommendations. Multiple offences were used to analyse whether sentence lengths changed in response to different offences. The other offences have been included so that the researcher is not influencing the participant's interpretation of the scenario. The definitions were obtained from the Butterworths Concise Legal Dictionary (Nugh & Butt, 1997).

The third section of the questionnaire was designed to obtain a base line measure of sentencing recommendations prior to the participants being influenced by the scenario (see Appendix C). This section was designed to determine whether the scenario had an impact on the sentencing recommendations.

The fourth section of the questionnaire includes a crime scenario based on the vignette developed by Rachlinski and Jourden (2003) (See Appendix D). The vignette utilised in the current study describes a crime of violence (manslaughter). This vignette was modified from a previous study in which it was rated as a moderate level scenario (Rachlinski & Jourden, 2003). The scenario within the previous study was different in that they manipulated the defendant characteristics, while the current study standardised the defendant characteristics and varied the victim characteristics. The scenario was specifically selected as Rachlinski and Jourden rated it as being of moderate severity and having limited negative effects upon participants required to read the materials. The scenario within the current study may be considered slightly more severe with the manipulation of the victim factors. The scenario was taken from an American study, which identified it as a manslaughter scenario however a knowledgeable reader identified that within the Queensland jurisdiction this offence would be termed murder. All of the materials referred to the crime as manslaughter and all participants were working off the same materials. For consistency within the research the crime has been referred to as manslaughter however it is acknowledged that this was a research oversight. It is also acknowledged that the title of offence should not have made a significant difference as all participants were given the same information. Limited information was provided within the scenario in an attempt to reduce any potential distress for participants.

This section also asked the participants to indicate the sentence they felt was appropriate for the scenario. Participants were asked to rate criminal behaviours within the scenario.

The inclusion of the other criminal behaviours is an attempt to ensure that participants were not able to determine the specific research question or the specific crime being targeted within the study.

A manslaughter vignette was selected as opposed to other criminal acts for use in the current study for a number of reasons. Firstly manslaughter was selected due to a general public consensus regarding its severity (most people view manslaughter as a severe offence) as confirmed by research conducted by Bergeron and McKelvie (2004), which found that murder vignettes were viewed as deserving a more severe punishment than theft vignettes. Secondly, manslaughter was selected because currently in the state of Queensland the crime of murder carries a mandatory life sentence that is defined as a minimum of 15 years imprisonment, while manslaughter has a life sentence as a maximum sentence. This very specific guideline creates an ideal opportunity for comparison between public beliefs regarding sentencing and the legal guidelines judges must work within (Potas, 1998). Thirdly, the manslaughter scenario was selected in the hope that choosing a crime of significant severity may create an opportunity for greater variance in sentence length recommendations. In addition previous research has demonstrated that the method of presentation of information to subjects is a significant factor in obtaining realistic non-biased results with previous finding indicating that when little to no crime information is provided the sentencing recommendations tended to be more severe and an inaccurate reflection of public perceptions (Paulin, Searle & Knaggs, 2003; Roberts, 1992; Doob & Roberts, 1983; Brillion, 1988 and Doble & Klein, 1989). The method of presentation of crime information that was recommended was a crime

scenario (Paulin, Searle & Knaggs, 2003). Finally, selecting the crime of manslaughter appears to be more appropriate given the 0 to 99 year sentencing span selected. Previous research suggests that for crimes of low severity, participants tend to choose sentencing lengths that are concentrated towards the lower end of the spectrum, reducing the chance of finding significant differences in sentencing (Bergeron & McKelvie, 2004; Abwender & Hough, 2001). Therefore the main reasons for the use of the 0 to 99 year sentencing range were that this range would be consistent with previous research within the area making it comparable and also because previous research has suggested that the use of this sentencing range resulted in a greater likelihood of obtaining significant findings (Beregeron & McKelive, 2004; Abwender & Hough, 2001).

The final two sections of the questionnaire asked the participants to complete the LOC and JWB self report scales (see Appendix E and F). These scales have been included, as previous research has indicated that sentencing decisions may be influenced by a person's JWB and their internal LOC. By including these scales and determining whether they have a significant impact on sentencing recommendations, it may be possible to make recommendations for future research regarding whether these are important factors to consider when exploring factors that influence sentencing.

Just World Belief Scale (Appendix F): -

Rubin and Peplau (1975) developed the Just World Belief Scale. JWB can be viewed along an attitudinal continuum extending between the two extreme beliefs of total

acceptance to total rejection of the notion that the world is a just place (Rubin & Peplau, 1975). When people who hold JWB observe suffering they are often prone to conclude one of two things 1) the suffering is not really taking place or 2) the victim is in fact blameworthy (Rubin & Peplau, 1975).

The JW scale includes 11 just statements and 9 unjust statements that are designed to indicate whether a person holds just or unjust beliefs about the world. Participants are asked to indicate their degree of agreement or disagreement with each statement on a 6-point continuum with scores ranging from 0 to 6. The average participant scores obtained on this scale are between 3.08 and 3.79, indicating a slight tendency to reject the notion that the world is a just place. The scale has been found to have high internal consistency among Oklahoma and Boston undergraduate students: coefficient alpha .80 for the Boston students and .81 for the Oklahoma students (Rubin & Peplau, 1975). The scale has been used in numerous research projects, which have all suggested that it is a reliable and valid measure of JWB (Rubin & Peplau, 1975; Kent, 2003).

Locus of control (Appendix E): -

Rotter developed the Locus of Control scale in 1966. He defined LOC as 'a generalised expectancy about the causation of reinforcements or outcomes, with one end of the uni-dimensional continuum labelled internal, and it's opposite external' (Rotter, 1966; Robinson, Shaver, & Wrightsman, 1991). An internal LOC indicates that an individual believes that he or she or others are responsible for the situations in which they or others

find themselves. An external LOC conversely indicates that an individual views their and others' situations as being primarily determined by external forces, whether they be defined as luck, fate, other people's behaviour, or some other external factor (Robinson et al. 1991).

The scale is presented in a forced choice format in which internal statements are compared to external statements. One point is given for each external statement selected with scores ranging from 0 (most Internal) to 23 (most External). The scale is self-administered and can be completed in approximately 15 minutes. The average scores found to be obtained in previous research by Rotter (1966) found the mean scores for men and women were 8.2 and 8.5 respectively. Research by Strickland and Haley (1980) found mean scores slightly higher with men scoring 11.3 and women 12.2. An internal consistently coefficient of .70 was obtained from a sample of 400 college students (Rotter, 1966). Literature indicates that the LOC scale is sensitive to individual perceptions of one's control over their destiny (Robinson et al. 1991). With regard to discriminant validity, Rotter reports that correlations with the Marlowe-Crowne Social Desirability scale range from $-.07$ to $-.35$. Correlations with Edwards' Social Desirability Scales have been found to range between $-.23$ and $.70$ (Robinson et al. 1991).

Some criticisms have been presented with regard to this scale. For example, it has been argued that an unfortunate consequence of the use of this presumably unifactor scale has been the developing tendency to view LOC as a trait, or worse a typology (Robinson et al. 1991). Robinson and colleagues (1991) argued for example that although correlations

between various scales designed to assess such characteristics might reveal weak if significant relationships in support of such supposed types, it should be self-evidence that a 23-item questionnaire cannot sort people into types and that much error and confusion will result from attempts to interpret the scale in this way.

Rotter's (1966) Internal-External (I-E) Locus of Control Scale has reportedly been the most widely used and cited measure in the locus of control literature and it has also been extensively criticized. Some of the criticisms have been with regard to the presumed unidimensionality of the scale, its inherent social desirability response bias, and the difficulties and complications created by its forced-choice format (Furnham & Steele, 1993). Factor analysis of Rotter's I-E Scale reported that this measure was not unidimensional as it had been presumed to be. Specifically, Mirels (1970), MacDonald and Tseng (1971) and others have consistently obtained at least two factors in their factor analyses of Rotter's I-E Scale, which seemed accurately defined as personal and social system control. Collins (1974) first reported that the forced-choice internal and external alternatives did not correlate highly with each other when they were presented as separate scales, and since this observation there has been growing scepticism about the use of this format. Much of the factor analytic research with Rotter's scale has been described by Ashkanasy (1985) and Marsh and Richards (1987) and their analyses is said to offer equivocal evidence for the presumed uni-dimensionality of the scale.

Overall, the scale has been used in a number of studies, including a group of studies that found significant correlations with measures of social desirability response bias, and

those that have found that the scale measures more than a single factor, research which has called into question the validity of the scale (Furnham & Steele, 1993). However, it has been reported that when one considers that the correlations with measures of social desirability response bias are typically low and results of factor analysis are varied and sometimes difficult to compare, one must conclude that methodological questions have been more effectively raised than answered.

Despite the extensive criticisms of the scale it has proven useful in exploratory research in which locus of control is suspected of being a contributing factor (Robinson et al. 1991). High magnitude correlations, however, are not to be anticipated given the diversity of the items in the scale, though this very diversity has been argued as helping to account for its suitability in exploratory investigations (Robinson et al. 1991).

Pilot Study Results

The pilot study included seven men and three women with an age range from 17 to 74 and an average age of 41.3 years. Of the ten participants, seven had a secondary level education, two had trade qualifications and one had a tertiary level qualification. With regard to victim history, six participants identified that they had never been the victim of a crime and four identified as being victims. With regard to the crime definitions, the average sentences recommended were as follows: Burglary: 5.28 years; Arson: 10.02 years; Theft: 5.76 years; Stalking: 7.43 years; Assault: 8.22 years; Aggravated Assault: 11.87 years; Grievous Bodily Harm: 15.73 years; Kidnapping: 22.90 years;

Manslaughter: 30.64 years and Murder: 64.65 years. For the manslaughter scenario, the average sentence length recommended spanned from 10 to 99 years with an average of 32.87 years, a sentence slightly less than that recommended for the crime definition. On the just world belief scale, the participant scores spanned from 1.8 to 2.9 and for the locus of control scale the scores spanned from 7 to 16.

As a result of the pilot study a few changes were made, including slight wording changes to the scenario, a change in the order of offences in section two of the questionnaire, a change in the wording of the questions following the scenario and some minor changes to the format of the assessment materials. Information gathered from the pilot study regarding the average length of time for completion was also included on the assessment materials. The questionnaire including both scales was found to take approximately 25 minutes to complete. Because the changes made as a result of the pilot study were not significant, the information gathered from the pilot study participants was included in the final analysis.

Main Study

Procedure / Method

The design was intended to explore factors that impact upon public sentencing recommendations, specifically looking at victim characteristics, participant characteristics, JWB and LOC of participants. The current study was based on a within subjects design whereby participants acted as their own control group. After obtaining

ethics approval for the research design and assessment materials, a pilot study was conducted to identify any potential administration difficulties.

The procedure outlined in the pilot study section did not significantly differ within the main study. It is important to note however that all of the participants both in the pilot and main study were not informed of the specific research questions, as this could have biased their results. It was determined that concealing this information was not detrimental to participants while being necessary to obtain accurate data.

The research instructions differed slightly with main study participants being informed that they were participating in a university study and that their personal information was to be kept separate from the test materials in order to ensure confidentiality. All test materials were numbered and participants were instructed to retain a copy of their personal identification number should they wish to obtain their personal research information at the completion of the study.

The format of the materials and their presentation were not modified from the pilot study apart from some minor changes in the wording of the questions. Please refer to the procedure and materials section of the pilot study for this information.

Questionnaire Assignment

Ten different scenarios were developed and were numbered for identification purposes. Questionnaires were provided to participants in a systematic manner, with the first participant receiving scenario 1, participant 2 receiving scenario 2 and so on, repeating the cycle after each set of ten scenarios had been allocated.

Research Hypotheses

A number of research hypotheses were made regarding the potential outcomes of the proposed analysis. The hypotheses are as follows-

- 1) The sentence lengths recommended by participants would vary for the different crime definitions presented.
- 2) The sentence lengths recommended by participants for the crime definitions would be significantly longer than the sentences utilised in the Queensland criminal courts.
- 3) That participant' age, gender, victim history, just world beliefs and locus of control beliefs will significantly increase the sentencing recommendations made.
- 4) That sentence lengths recommended for the manslaughter definition will be significantly longer than the sentence lengths recommended for the crime of manslaughter after reading the crime vignette.
- 5) That sentence length will be significantly different across the ten crime scenarios with the scenarios involving, children, women and the elderly resulting in significantly longer sentencing recommendations from participants.

- 6) That participant age, gender, victim history, locus of control and just world beliefs would significantly increase the sentence lengths recommended after reading the crime scenario.

Results

Chapter 7:-Descriptive Information

Population and Sample

The participants in the current research project were recruited using purposeful sampling. The sample consisted of 228 people ranging in age from 18 to 75 years. The mean age for participants was 41.43 years ($SD = 13.56$). The sample consisted of 132 females and 94 males with two participants not reporting their gender. Participants identified their educational background with 11 participants stating that they had a primary school level of education (5%), 97 with a secondary education (44.7%), 85 with tertiary education (39.2%) and 24 with a trade (11.1%). Participant locus of control was assessed with a mean score of 11.46 ($SD = 4.66$) and a score range of 0 to 21. The average score of approximately 11 indicates that participants generally had neither a significantly internal or external locus of control. Participants were also assessed with regard to their just world beliefs with a mean score of 2.36, $SD = 0.43$, and a range from 1.21 to 3.80. This score indicates that on average participants did not predominately view the world as just or unjust. All participants assessed were asked to indicate whether they were ever the victims of a crime. Of the 228 participants, 51 (22.37%) identified as being a victim of crime. The remaining 177 (77.63%) stated that they had never been the victims of an offence. A summary of the participant demographic and research information has been summarised in Table 4.

Table 4

Participant Demographic and Research Information

Participant Factors	<u>N</u>	<u>M</u>	<u>SD</u>	Range	Min	Max	Missing Cases
Participant Gender							2
Male	94						
Female	132						
Participant Age	227	41.43	13.56	57	18	75	1
Education							11
Primary	11						
Secondary	97						
Tertiary	85						
Trade	24						
Just world Beliefs	226	2.36	.43	11.46	4.66	3.80	2
Locus of Control	201	11.46	4.66	21	0.00	21	27
Victim of Crime							
Yes	51						0
No	177						

Questionnaires

Of the 400 questionnaires handed out within the community, 241 were returned. Of the 241 returned, 228 had all or most of the questions completed, while the remaining 13 were excluded from analysis due to lack of completion. The percentage of questionnaires returned was 57%.

As indicated in the method section, all participants were randomly allocated one of ten questionnaires. The scenarios differed with regard to the gender and age of the victim described, all other details remained the same. The ten different questionnaire options and the number of each questionnaire successfully completed and return are outlined in Table 5.

Table 5

Questionnaire Return Rates

Questionnaire Characteristics	Number completed
Gender of Victim: - Female	
Age of Victim: - Child (10 years of age)	28
Gender of Victim: - Female	
Age of Victim: - Young adult (25)	25
Gender of Victim: - Female	
Age of Victim: - Middle aged adult (30)	22
Gender of Victim: - Female	
Age of Victim: - Late adult (40)	22
Gender of Victim: - Female	
Age of Victim: - Elderly (65)	17
Gender of Victim: - Male	
Age of Victim: - Child (10)	17
Gender of Victim: - Male	
Age of Victim: - Young adult (25)	17
Gender of Victim: - Male	
Age of Victim: - Middle aged adult (30)	25
Gender of Victim: - Male	
Age of Victim: - Late Adult (40)	26
Gender of Victim: - Male	
Age of Victim: - Elderly (65)	29
TOTAL	228

Chapter 8 :- Perceptions of Crimes

Participants Sentencing and Different Crimes

An initial descriptive analysis was completed to compare sentencing recommendations for the crime definitions. The results indicated that the sentences recommended varied from 5.47 years for theft to 63.95 years for murder. In addition two paired t-tests were completed comparing the mean sentence lengths for the crime definitions in order to determine whether there was a significant difference between sentencing recommendations made. The results indicated that the sentence lengths allocated for each of the crime definitions were significantly different at $p < 0.001$ with the exception of the comparisons for burglary and theft and stalking and assault where the average sentence lengths recommended for these crime definitions was not significantly different. Overall however hypothesis one was supported with average sentence lengths varying significantly across the 10 crime definitions (see Table 6).

Table 6

T-test and Descriptive Analysis Summary

Crime Definition	<u>M</u>	<u>SD</u>	df
Burglary	5.28	7.57	221
Theft	5.76	9.62	221
Arson	10.02	11.67	221

Stalking	7.43	13.81	221
Assault	8.22	12.93	221
Aggravated Assault	11.87	13.72	221
Grievous Bodily Harm	15.73	14.70	221
Kidnapping	22.90	23.09	221
Manslaughter	30.64	28.67	221
Murder	64.65	34.35	221

A MANCOVA was completed using a Type I error rate of $p < 0.001$ the more conservative error rate was selected due to the number of analysis being performed. The analysis explored whether a participants gender (IV) and victim history (IV) significantly impacted on the sentencing recommendations they made for the ten crime definitions (DV). Covariates of participant age, just world beliefs and locus of control were also included in order to identify whether any of these participant variables were significantly associated with the sentences participants applied to each of the criminal definitions explored. It was established from this analysis that for each of the independent crimes the sentences allocated in number of years spanned the maximum variance from 0 to 99 years.

The analysis included 113 female participants and 80 male participants, with 44 participants being victims of crime and 149 being non-victims. As a result of missing data, not all participants were included in the analysis, resulting in the reduced total number of 193 participants, therefore the results reported are based on $n = 193$. The

analysis also included covariates of participant age, JWB and LOC. These factors were included as covariates because including all of these factors, as independent variables would require greatly increased sample size.

Assumption testing was completed prior to completing the MANCOVA with all assumptions being met. The MANCOVA results indicated that participant gender and victim history did not significantly impact on sentencing recommendations. The MANCOVA analyses also found that the covariates of participant age, LOCB, and JWB were not significantly associated with the sentencing recommendations at $p < 0.001$, for any of the crime definitions. All of the specific results regarding these co-variables have been included in the tables provided within the appendix for each crime (see Appendix K to T). However they have been excluded from the written results section for the sake of brevity.

Burglary

For the crime of Burglary, the female participants' mean sentence length ($\underline{M} = 5.45$, $\underline{SD} = 8.89$) was slightly higher but with greater variance than the sentences recommended by the male participants ($\underline{M} = 4.96$, $\underline{SD} = 4.35$). When the victim history was taken into consideration, female victims of crime recommended the highest average sentence ($\underline{M} = 6.79$, $\underline{SD} = 10.92$), while the male non-victims of crime recommended the most lenient average sentence ($\underline{M} = 4.65$, $\underline{SD} = 4.27$). The MANCOVA analysis indicated that there was no significant difference at an alpha level of $p < 0.001$, ($p = 0.442$ victim history, p

= 0.764 participant gender) in the sentencing recommendations across the groups, including the co-variables analysed (see Appendix K).

Arson

For the crime of arson, the female participants assigned slightly longer sentences on average than did the male participants ($\underline{M} = 10.68$, $\underline{SD} = 14.43$ and $\underline{M} = 9.16$, $\underline{SD} = 7.33$ respectively). When victim history is taken into consideration, again the females who identified as being victims of crimes had the highest average sentence length ($\underline{M} = 12.52$, $\underline{SD} = 20.72$), and males who identified as being non-victims again revealed the lowest average score ($\underline{M} = 8.53$, $\underline{SD} = 6.42$). The MANOVA analysis again identified that the differences observed were non-significant at an alpha level of $p < 0.001$, across all of the variables ($p = 0.510$ victim history, $p = 0.643$ participant gender) (see Appendix L).

Theft

When considering the crime of theft, with male participants on average sentencing for fewer years ($\underline{M} = 5.43$, $\underline{SD} = 6.74$) than did female participants ($\underline{M} = 6.23$, $\underline{SD} = 12.02$). The results are consistent with previous sentencing recommendations, with females who identified as victims recommending the highest average sentences ($\underline{M} = 9.10$, $\underline{SD} = 21.02$), and the males who identified as non-victims recommending the lowest average sentence ($\underline{M} = 4.97$, $\underline{SD} = 7.00$). The MANCOVA analysis revealed that there was no

significant effect for the participant variables at an alpha level of $p < 0.001$ ($p = 0.254$ victim history, $p = 0.573$ participant gender) (see Appendix M).

Stalking

The analysis of sentencing for stalking indicates that there was a minimal difference between the sentencing allocated by the females participants that identify as victims and those who identify as non-victims ($M = 9.05$, $SD = 20.92$), as compared to ($M = 9.00$, $SD = 16.76$) respectively. Female victims again allocated the longest average sentences and the male non-victims the shortest average sentence ($M = 9.05$, $SD = 20.92$) as compared to ($M = 5.61$, $SD = 8.81$). Female participants had the longest sentencing when compared to male participants (females: $M = 9.01$, $SD = 19.51$, Males: $M = 5.82$, $SD = 8.16$). The MANCOVA analysis revealed no significant differences at $p < 0.001$ for the participant variables ($p = 0.972$ victim history, $p = 0.263$ participant gender) (see Appendix N).

Assault

An analysis of the sentencing recommendations for the crime of assault revealed that the female participants again assigned a longer sentence ($M = 9.42$, $SD = 15.42$) than did the male participants ($M = 7.05$, $SD = 9.62$). The results for the crime of assault differed from the previous analysis with respect to the participants assigning the shortest sentence. For the crime of assault, the male victims allocated the shortest average sentence ($M =$

6.91, $\underline{SD} = 8.53$) while the female victims remained the participants allocating the longest sentences ($\underline{M} = 11.69$, $\underline{SD} = 20.93$). The MANCOVA analysis again indicated that although there appears to be a difference in the average sentences recommended across participant groups, the differences were not significant at an alpha level of $p < 0.001$ for either the main groups or the co-variables ($p = 0.703$ victim history, $p = 0.237$ participant gender) (see Appendix O).

Aggravated Assault

For the offence of aggravated assault the females again allocated a longer average sentence than the males ($\underline{M} = 12.97$, $\underline{SD} = 15.68$), and ($\underline{M} = 10.82$, $\underline{SD} = 11.79$) respectively. Also consistent with the previous offences, the female participants that identified as being victims of crime allocated the longest average sentence ($\underline{M} = 14.79$, $\underline{SD} = 20.90$) and the male non-victims of crime allocated the shortest average sentence ($\underline{M} = 10.50$, $\underline{SD} = 12.11$). The MANCOVA analysis was also consistent with the previous crime analysis revealing no significant differences at an alpha level of $p < 0.001$, between participant groups or co-variables ($p = 0.709$ victim history, $p = 0.465$ participant gender) (see Appendix P).

Grievous Bodily Harm

The average sentence length was shorter for females as compared to males for the crime of grievous bodily harm ($\underline{M} = 22.83$, $\underline{SD} = 23.12$) and ($\underline{M} = 24.58$, $\underline{SD} = 24.14$)

respectively. Male victims of crime allocated the longest average sentences ($\underline{M} = 26.61$, $\underline{SD} = 29.05$) and the female victims allocated the shortest average sentences ($\underline{M} = 18.05$, $\underline{SD} = 20.94$). The MANCOVA analysis was also consistent with previous crime analysis in that the participant groups were not significantly different at an alpha level of $p < 0.001$ with regard to their sentencing recommendations and with respect to any of the variables assessed ($p = 0.709$ victim history, $p = 0.465$ participant gender) (see Appendix Q).

Kidnapping

The crime of kidnapping presented male participants allocating the longest average sentence length ($\underline{M} = 24.58$, $\underline{SD} = 24.14$) when compared to females ($\underline{M} = 22.83$, $\underline{SD} = 23.12$), and with male victims allocating the longest average sentence ($\underline{M} = 26.61$, $\underline{SD} = 29.05$), and the shortest average sentence being allocated by the female participants who identified themselves as being victims of crime ($\underline{M} = 18.05$, $\underline{SD} = 20.94$). Although the pattern of the results was different when compared to the previous crimes, the MANCOVA analysis revealed a similar result of no significant difference at an alpha level of $p < 0.001$, between groups or across variables ($p = 0.540$ victim history, $p = 0.215$ participant gender) (see Appendix R).

Manslaughter

For the crime of manslaughter the results revealed that female participants allocated the longest average sentence lengths for this crime ($\underline{M} = 35.68$, $\underline{SD} = 31.66$). The average

sentence allocated by male participants was 25.14, ($\underline{SD} = 24.03$). The overall longest average sentence was allocated by female participants that identified themselves as not being victims of crime ($\underline{M} = 36.60$, $\underline{SD} = 32.82$) and the shortest average sentence was allocated by male participants that identified as being victims of crime ($\underline{M} = 22.15$, $\underline{SD} = 23.17$). The MANCOVA analysis indicated that the difference observed between the groups was not significant at an alpha level of $p < 0.001$ with regard to any of the identified variables or their interactions ($p = 0.260$; victim history, $p = 0.095$ participant gender) (see Appendix S).

Murder

For crime of murder females again allocated the longest average sentence ($\underline{M} = 68.77$, $\underline{SD} = 34.11$) with the average sentence allocated by male participants being notably shorter ($\underline{M} = 61.11$, $\underline{SD} = 34.73$). Overall, the participants that identified as being victims of crime assigned the longest average sentence ($\underline{M} = 71.92$, $\underline{SD} = 33.37$) and non-victims ($\underline{M} = 63.72$, $\underline{SD} = 34.70$). The MANCOVA analysis was consistent with all of the previous analysis in identifying no significant difference at $p < 0.001$ as a result of victim history ($p = 0.646$) and participant gender ($p = 0.249$).

Overview of Participants Sentencing Recommendations

The initial paired t-test results found that with the exception of the comparisons between burglary and theft and stalking and assault the average sentence lengths recommended by

participants significantly varied for the ten different crime definitions consistent with the first hypothesis. In the second analysis the MANCOVA revealed that there were no significant differences in the way that participants sentenced across crimes when comparing sentencing based on participant gender and victim history, participant age, LOCB or JWB failing to support hypothesis three see table 7.

Table 7

Sentence Length Recommendation in Years by Crime and Participant Groups

	Male	Female	Victim	Non-Victim	Male	Male	Female	Female	Overall
					Victim	Non-Victim			Average
					*	*	*	*	Sentences
Burglary	4.96	5.45	6.23	4.96	5.72	4.65	6.79	5.15	5.27
Arson	8.52	10.26	11.58	9.59	10.72	8.53	12.52	10.26	9.98
Theft	5.43	6.28	7.77	5.38	6.57	4.92	9.10	5.63	5.74
Stalking	5.82	9.01	7.64	7.70	6.35	5.61	9.05	9.00	7.37
Assault	7.06	9.42	9.19	8.22	6.91	7.12	11.69	8.90	8.15
Aggravated Assault	10.8	12.55	13.13	11.78	11.61	10.05	14.79	12.55	11.82
Grievous Bodily Injury	14.8	17.04	16.48	16.01	15.30	14.61	17.76	16.61	15.66

Harm									
Kidnapping	24.5	22.83	22.52	23.86	26.61	23.75	18.05	23.92	22.78
	8								
Manslaught	25.1	35.68	26.67	32.68	22.15	26.35	31.62	36.60	30.64
er	4								
Murder	61.1	68.77	71.92	63.72	72.22	56.62	71.60	68.13	64.95
	1								
Overall	16.8	19.73	19.31	18.39	18.42	16.22	20.30	19.68	18.24
Means	3								

* Columns nested in columns male and female.

Table Description

The above table describes the sentence lengths in years allocated by each participant group for the ten identified crimes. The results clearly indicate that murder consistently results in the longest average sentence from all participant groups, that burglary consistently results in the shortest average length of sentence and that sentence length varied across the ten different crime definitions.

Initial Analysis Courts compared to Participants

Within the first section of the questionnaire participants were asked to provide sentencing recommendations for ten criminal offences. The section included a list of ten crime

definitions followed by an instruction to participants to rate each crime using a sentencing scale of 0 to 99 years. This section of the questionnaire provides an indication of how people view different criminal behaviours prior to any manipulation, while also ensuring that all participants had the same understanding of each crime. These initial sentencing recommendations were compared to the average sentences handed down in Queensland criminal courts in order to determine whether the sentencing recommendations of participants are consistent with the sentences allocated in the legal system.

When exploring the sentencing recommendations of participants, it was important to identify whether the sentences recommended were comparable to the sentences that a criminal would have received in a Queensland court of law. A comparative analysis was completed on the sentences allocated by participants for the crime definitions in the initial section of the questionnaire to the average sentences allocated for comparable crimes in Queensland courts. The average sentence lengths for crimes in Queensland courts were obtained from the Australian Bureau of Statistics (2005).

Ten one sample T-tests were completed to compare the mean sentence lengths recommended for the crime definitions by participants to the average sentence lengths recommended within Queensland courts. The T-tests revealed that for all of the crime definitions the mean sentence recommended by participants was significantly longer than the average sentences applied within Queensland Courts. An alpha level of $p < 0.001$ was utilised due to the number of analysis being conducted on the same data. Table 8 provides a summary of these results.

Table 8

T-test Analysis Court Mean Sentences Compared to Participant Mean Sentences for
Crime Definitions

Crime Definition	Participant	QLD Court	p	df
	<u>M</u> Years	<u>M</u> Years		
Burglary	5.27	1.6	0.000	223
Arson	9.98	2.4	0.000	223
Theft	5.74	0.7	0.000	223
Stalking	7.37	0.9	0.000	223
Assault	8.15	0.4	0.000	223
Aggravated Assault	11.82	1.2	0.000	223
Grievous Bodily Harm	15.66	3.8	0.000	223
Kidnapping	22.78	0.9	0.000	223
Manslaughter	30.64	8.6	0.000	223
Murder	64.78	15	0.000	223

Table Description

Table 8 provides an overview of the results from the analysis on the ten crime definitions comparing sentences recommended by participants compared to sentence lengths recommended by the Queensland courts. All analysis were significant at $p < 0.001$.

The results indicated that for all of the target crimes, the participants in the study assigned a longer sentence than the average sentence for each crime allocated in the Queensland court. The crime of manslaughter was considered separately using descriptive analysis with the following results. For the target crime of manslaughter, the average sentence assigned by participants (30.64 years) was approximately 3 and a half times more than the average sentence allocated within the Queensland courts (8.6 years). These findings support hypothesis two that sentencing recommendations made by participants would be significantly longer than those allocated within Queensland courts.

Chapter 9 :- Main Analysis of Scenario Condition

A 5 x 2 ANCOVA was conducted to explore the differences in sentencing recommendations for the ten crime scenarios. The crime scenarios differed in sentence lengths recommended (DV) in relation to of the victims' age and gender (IVs). Participant age, LOC and JWB were included within the analysis as covariates. Participant victim history, and gender were excluded from this analysis because they were assessed in a separate analysis using independent t-tests, which will be discussed at the end of this results chapter.

Of the questionnaires returned and completed, 98 of them contained a scenario describing a female victim, and 94 contained a scenario describing a male victim. The questionnaires returned also included 37 child scenarios, 35 young adult scenarios, 41 middle adult scenarios, 42 late adult scenarios and 37 elderly victim scenarios (see Table 9).

Table 9

Mean Sentence Lengths and Standard Deviations for Victim Characteristics

Victim Age (Specific age of victim in scenario in parentheses)	Gender	
	Male Victim	Female Victim
Child (10)	<i>M</i> 43.50 <i>SD</i> 30.896 <i>N</i> = 14	<i>M</i> 33.91 <i>SD</i> 33.14 <i>N</i> = 23

Young Adult (25)	<i>M</i> 34.20 <i>SD</i> 29.01 <i>N</i> = 15	<i>M</i> 36.75 <i>SD</i> 29.52 <i>N</i> = 20
Mid Adult (30)	<i>M</i> 26.60 <i>SD</i> 22.76 <i>N</i> = 20	<i>M</i> 40.48 <i>SD</i> 34.34 <i>N</i> = 21
Late Adult (40)	<i>M</i> 32.00 <i>SD</i> 33.69 <i>N</i> = 23	<i>M</i> 24.05 <i>SD</i> 22.72 <i>N</i> = 19
Elderly (65)	<i>M</i> 26.23 <i>SD</i> 24.84 <i>N</i> = 22	<i>M</i> 30.93 <i>SD</i> 28.83 <i>N</i> = 15

Table Description

Table 9 provides an overview of the mean sentence lengths, standard deviations and number of participants for each of the different age and gender scenarios. Each of the different groups had participant numbers between 14 and 23. The longest sentence length was allocated for the male, child group and the shortest average sentence was allocated for the female, late adult group.

The results indicated that participants allocated the shortest average sentence length to the scenario that described a female victim within the late adult age group (40 years old) (*M* = 24.05, *SD* = 22.72). The longest average sentence recommendation was assigned to the scenario that described a male victim in the child age group (10 years old) (*M* = 43.50, *SD* = 30.90). The ANCOVA analysis identified that victim age did not have a significant effect on sentencing recommendations at alpha 0.001 $p = 0.461$. The analysis also found that victim gender had no impact on sentencing recommendations at alpha 0.0001, $p = 0.935$. The analysis also found that the interaction between victim age and victim gender was not significant at alpha 0.001 $p = 0.381$ (see table 10). Although the sentencing

recommendations varied between the different age and gender scenarios, the differences between the sentencing recommendations made by participants was not significant at $p < 0.001$. Participants sentencing recommendations did not vary significantly as a result of being presented with scenarios involving victims of different ages and gender.

The ANCOVA analysis also included three covariates (participant age, participant just world beliefs and participant locus of control ratings). When the covariates were taken into consideration, the ANCOVA identified that participant age, LOCB and JWB did not significantly influence the sentencing recommendations at $p < 0.001$ (see Table 10).

Table 10

ANCOVA Analysis Results

Variable	SS	MS	Analysis Results		
			df	F	Sig.
Victim Age	3127.74	781.94	4	0.908	0.461
Victim Gender	5.66	5.66	1	0.007	0.935
Age / Gender Interaction	3633.44	908.36	4	1.054	0.381
Participant Age	90.22	90.22	1	0.105	0.747
Participant Just World Beliefs	1377.57	1377.56	1	1.599	0.208
Participant Locus of Control Beliefs	362.57	362.57	1	0.421	0.517
Error	153239.404	856.198	179		

Table Description

Table 10 provides a summary of results of the ANCOVA analysis with all results being non-significant at $p < 0.001$.

t-test Results

After completing the ANCOVA analysis, three additional t-tests were conducted to determine whether the scenario had a significant impact on the sentencing recommendations, whether men and women sentenced differently after reading the scenario and to determine whether being a victim of a crime had a significant impact on participants sentencing after reading the scenario.

Within the first t-test, the sentencing recommendations made by participants for the manslaughter crime definition from section two of the questionnaire and the sentencing recommendations made for the crime of manslaughter after reading the scenario were compared. The t-test identified that there were no significant differences at $p < 0.05$, in the sentencing recommendations for the crime of manslaughter.

When male and female sentencing recommendations were compared for the crime of manslaughter after reading the scenario, the t-test indicated that there was no significant difference at alpha 0.05 in the sentencing recommendations made by men ($\underline{M} = 28.27$, $\underline{SD} = 25.68$) and women ($\underline{M} = 34.07$, $\underline{SD} = 29.99$) at $t(1, 1.499) =$, $p = 0.135$).

The final t-test explored whether victims of crime and non-victims of crime that participated in the study gave significantly different sentencing recommendations after reading the scenario. The findings indicated that there was no significant difference in the way that these two groups sentenced after reading the scenario at $p < 0.05$. An overview of the results from the t-tests has been provided (see Table 11).

Table 11

Overview of T-Test Results

Groups	<u>M</u> Sentence length in Years	<u>SD</u>	Sig. (2-tailed)	t Value	df
Males	28.27	25.68	0.135	1.499	217
Females	34.07	29.99			
Manslaughter (definition)	30.98	28.97	0.463	-.735	214
Manslaughter (scenario)	32.05	28.46			
Victim of Crime	33.19	28.37	0.670	.427	218
Non-Victim of Crime	31.20	28.32			

Table Description

Table 11 provides an overview of the t-test results for the analysis of sentencing recommendations made across the different groups. All of the analyses were non-significant at $p < 0.001$.

Chapter 10 :- Analysis Summary

Exploring the outcomes from each of the hypothesis has provided an overview of the results from this research project. The first hypothesis that sentence lengths would vary across the different crime definitions was supported. The second hypothesis that the sentence lengths recommended by participants for the crime definitions would be significantly longer than the sentences utilised in the Queensland criminal courts was also supported.

With regard to hypothesis three that participants' age, gender, victim history, just world beliefs and locus of control beliefs will significantly increase the length of sentencing recommendations made, the results indicated that participants did not sentence significantly differently based on any of these extra-legal variables when they were only given a generic crime definition to consider.

Hypothesis four was that sentence lengths recommended by participants for the manslaughter definition would be significantly longer than the sentence lengths recommended for the crime of manslaughter after reading the crime vignette. The results found that there was no significant difference between the sentence lengths recommended for the crime definition as compared to the crime vignette.

Hypothesis five was that sentence lengths would be significantly different across the ten crime scenarios provided within the questionnaire with the prediction being that the

scenarios involving children, women and the elderly would results in longer sentences from the public. No significant differences were found across the ten different crime vignettes meaning that this hypothesis was also not supported.

The final hypothesis was that participant age, gender, victim history, locus of control and just world beliefs would significantly increase the sentence lengths recommended after reading the crime scenario. This hypothesis was also not supported with the findings indicating that these variables had no significant impact on the sentencing recommendations made for the ten different crime vignettes.

The results further indicated that the participants on average had neither an internal or external LOC when assessed on Rotter's (1966) LOC scale, participants did not identify as believing strongly in either a just or unjust world as assessed using Rubin and Peplau's (1975) JWB scale.

Chapter 11 :- Discussion

The discussion has been divided into sections, commencing with an overview of the research findings addressing each specific hypothesis. The following sections include a discussion regarding the results that were specifically related to the crime definitions, discussion regarding how each of the extra-legal variables impacted on the sentencing recommendations made in response to the crime definitions and a comparison of participant sentencing to court sentencing in Queensland. The discussion continues by concentrating on the impact of the extra-legal variables on the sentencing recommendations for the crime scenario and concludes with a comparison of the sentencing recommendations for the crime definition (manslaughter) versus the crime scenario. The final section of the discussion provides a summary of how the current research may impact upon the criminal justice system, and a summary of the future research recommendations made throughout the discussion.

Overview of Results

This research was conducted in order to expand upon the current literature on sentencing and the numerous extraneous variables that may impact upon this process. Previous research has demonstrated that a number of factors contribute to our beliefs regarding what sentence length is an appropriate punishment for a specific offence. The present study explored whether some of these extra legal factors may include information about a victim's age and gender, and characteristics related to those people evaluating a criminal

act. Numerous hypotheses were developed within this research project, but the findings failed to support the majority of these hypotheses. It should be noted that the non-significant findings that were not consistent with previous research, could be a reflection of cross-cultural differences that appear when comparing Australian participants to American participants, as the majority of previous research is American. It should also be noted that the power within the study was high enough to observe medium to large effects and therefore would not account for the non-significant findings. Although the study had sufficient power it should be noted that many of the statistical analyses may not have achieved significances as a result of the 0 to 99 year sentencing scale used. This scale although consistent with previous research recommendations from Bergeron and McKelvie (2004) and Abwender and Hough (2001), it allowed for a large degree of variance across the sentencing recommendations which negatively impacted on the possibility of obtaining significant results.

Hypothesis 1: - It was hypothesised that participants would allocate different sentences across the different crime scenarios. This hypothesis was supported within the current research and indicates that the participants were aware that crimes vary in severity and therefore require different sentencing allocations. This view is consistent with our legal system in that the punishment for an offence should relate to the offence committed. The findings were also consistent with previous research findings by Bergeron and McKelvie (2004), Wuensch, and colleagues (1993), La Pre (2006), and McKelvie and Coley, (1993).

Hypothesis 2: - That the sentencing recommendations of participants would be significantly longer than the average sentences recommended by the Queensland Criminal Courts. The findings were consistent with the hypothesis with participants sentencing significantly longer than the courts. This analysis also indicated that there was no difference across the participant groups assessed. This finding is consistent with previous research that suggested that the public view sentencing as being too lenient and that they may both overestimate the incidence of crime and underestimate the severity of criminal sentencing (NSW LRC, 2006). This finding is also consistent with previous research findings that suggest that the general public lacks awareness of the sentencing process or parole and good behaviour provisions (Mauer, 1996; Roberts, 1992; Smith, 1984). It is acknowledge that this finding may be the result of the use of the 0 to 99 year sentencing span. If participants were given a more restricted sentencing range to select from this disparity may not have been apparent. Previous research has demonstrated that the more information participants are given with regard to sentencing options and guidelines the less punitive they become (Doble & Klein, 1989).

Hypothesis 4: - That the manslaughter crime scenario would elicit significantly longer sentences for the offender than would be suggested by the manslaughter crime definition for the same offence. The analysis found that the sentencing did not significantly differ between the crime definition and the crime scenario. It is also acknowledged that the non-significant finding within this analysis may be the result of the very large variances within the sentencing recommendations made by participants.

Hypotheses 3 and 6: - That participants' characteristics (gender, age, victim history, LOCB and JWB) would significantly influence the sentences allocated for the crime definitions and the crime scenario. The results indicated that these participant variables did not significantly impact upon the sentencing recommendations made for either the crime definitions or the crime scenario. These findings suggest that these factors do not significantly impact upon sentencing recommendations or, more generally, on beliefs about appropriate punishments for the offences explored. This finding is not consistent with previous research, and may have been the result of a number of factors however it may also be an accurate reflection of how participants viewed the scenario indicating that these variables do not have a significant impact on sentencing recommendations. Some of the alternative arguments put forward for the current findings include the current research exploring sentencing recommendations, while the majority of previous research focused on guilt decisions or imposition of the death penalty (Nagel & Weitzman, 1972; Ferraro, 1997; Turow, 2003; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2033; Turner, 1996; Mazzella & Feingold, 1994; Bergeron & McKelvie, 2004;). Another potentially influential factor was the focus of the decision-making process upon individuals versus groups (as used in previous research), as well as the accountability of decisions that may be a component in-group decisions but not individual decisions (Walker et al. 1987; Wilker, 1987; Ferraro, 1997). These were just some of the many arguments presented for the current findings.

Another argument related to the structure of the research study, relates to the amount and type of information utilised within the scenario. Other factors that should be considered

within future research include criteria relating to classification as a victim of crime, and comparisons between those who have been victims of violent offences to those who have been the victim of property offences. Researchers should also seek to compare sentencing responses for sexual and non-sexual offences and also explore ways to assess sentencing recommendations to real crimes.

Hypothesis 5: - That the age and gender of the victim in the scenario would significantly impact upon the sentencing recommendations made. It was specifically theorised that sentences for the scenarios involving children, women or the elderly would be longer than the sentences for the other scenarios. These groups are clearly identifiable as potentially vulnerable populations indicated by the law in the case of age, and age and gender have been identified as extra-legal factors within the sentencing process. The findings indicate that although the average sentences varied across the scenarios, this variability was not significantly different across the groups. These findings suggest that victim characteristics do not impact upon the sentences that people feel are appropriate for the offence. It is acknowledged that the scenarios involving children could have been interpreted differently from the other scenarios as the details changed slightly however given that no significant differences were found across the scenarios any possible confound does not appear to have been significant.

Some of the alternative reasons presented for the current findings included that basic victim information does not influence the sentencing recommendations individuals feel are appropriate, the scenario may not have provided enough information to allow

participants to identify with a victim or a defendant, that there may be differences culturally from previous research (Australia as compared to America), and that the influence of the media was not included and may have a significant impact on sentencing beliefs and how individuals view a victim. The media allows for the presentation of a real victim with varying level of information. This reality factor may be highly influential in how people view a victim as compared to a scenario where participants are aware that the situation is not a real event. It is possible that in order for victim characteristics to have a significant impact, people need to be able to create a visual image of the victim, which may not have been possible with the scenario presented.

Future research should seek to explore victim characteristics independently, possibly exploring participant responses to victim information in order to effectively determine what information elicits a response or rather what information is considered to be important. The information from this analysis could then be used to develop a crime scenario.

Overall, the findings from the present study suggest that the participant age, gender, victim history, JWB and LOCB do not impact upon the sentencing process when participants are asked to provide sentencing recommendations in response to a crime scenario or a crime definition. They further indicate that victim age and gender information does not result in significant variations in the sentences allocated for a crime scenario. The most interesting finding revealed from the analysis was that participants on average allocated a lengthier sentence for the crime of manslaughter than that which is

allowable within our current legal system. In Queensland, that crime of manslaughter carries a maximum sentence of 15 years imprisonment. The participants within this study allocated an average sentence for manslaughter that was almost double this maximum. This finding indicates that further research is required within this area in order to explore why people allocated such a lengthy sentence for this offence and also to determine whether this difference exists consistently across all criminal offences.

Sentencing is a necessary component of our legal system and it should accurately reflect the needs of society while also providing a fair and reasonable assessment of punishment. The argument remains whether extra-legal variables should be taken into consideration within the sentencing process or whether each crime should carry a mandatory sentence. Furthermore, if extra legal factors are to be considered, what factors are appropriate to review and how do we strive to ensure that within this evaluation process we are not unfairly biasing individuals or specific groups. Research is a long way from answering these questions however each study helps to complete another piece of the puzzle.

Chapter 12

Sentencing Recommendations for Crime Definitions

Sentences for Crime Definitions

Sentencing is one of the critical elements of the justice system; it is the final stage in the legal processes whereby a defendant is assigned a penalty for their offence after the determination of guilt (Wrightsmann et al. 2002). Penalties for criminal behaviour have evolved over the course of time from punishments that focused on inflicting pain upon the body to some of the alternative penalties available within the legal system today, which include fines and imprisonment (Matthew, 2006). Criminal penalties serve a number of purposes including: acting as a deterrent to offenders and potential offenders, providing incapacitation, retribution, or restitution and potentially providing rehabilitation for offenders (Robinson, 2001).

Within the current research study, participants were asked to provide sentencing recommendations along a continuum of 0 to 99 years for a number of crimes. The only information provided to the participants within this initial stage of the study was crime definitions (Nygh & Butt, 1997). The results provided information regarding how sentence lengths recommended by participants changed in response to each offence presented, how the sentences recommended by participants compared to the average sentences handed down within the courts and how the participant characteristics (age, gender, victim history, JWB and LOCB) impacted upon the recommendations they made.

The initial analysis exploring sentencing recommendations for the crime definitions indicated that the sentence lengths recommended varied across the different crime definitions from an average of 5.28 years for burglary to an average of 64.65 years for the offence of murder (see Table 6). In the majority of cases, the female participants recommended longer sentences than the male participants with the only exceptions being for the crimes of kidnapping and grievous bodily harm. These gender-based differences in sentencing recommendations were not statistically significant.

The finding that sentence lengths significantly varied across the crime definitions is consistent with previous research by Bergeron and McKelvie (2004), with both finding that participants assigned longer sentences for the crime of murder than for the crime of theft. This finding is also consistent with research conducted by La Pre (2006), McKelvie and Coley (1993) and Wuensch and colleagues (1993) who found that mock juries assigned greater punishments for more severe offences. Overall the research findings were consistent with previous research and the convention within our legal system (Sentencing in Queensland Criminal Courts, 1997-1998).

Courts Versus Participant Sentences

The analysis aimed to explore the sentencing differences between the courts and the participants and revealed a significant difference between the average sentences allocated within the courts and the average sentences recommended by the participants in general

and also across the participant groups (male, female, victim and non-victim, female victims, male victims, female non-victim, and male non-victims: see Table 7). These findings supported two of the research hypotheses: - that sentence lengths recommended would vary across the different crime definitions and that the sentences recommended by participants would be significantly longer than the sentences generally assigned within the legal system.

As the target crime in the scenario within the main analysis was manslaughter, the findings associated with this crime definition were considered separately within the research results. The findings demonstrated that when participants were asked to provide a sentencing recommendation for the crime definition relating to manslaughter, the average sentence length recommended was 30.64 years. This sentencing recommendation provides an interesting contrast to the maximum sentence for manslaughter (15 years) allowable within Queensland courts (Potas, 1998; Sentencing in Queensland Criminal Courts, 1997-1998). The average recommendation made by the research participants was over twice that which is allowable within our legal system and this recommendation was based on a crime definition only. When the participants' recommendations were compared to the average sentence actually handed down within the Queensland criminal courts, the findings indicated that the difference becomes even more substantial with participants' sentence length being almost four times the average sentence from the courts (Australian Bureau of Statistics, 2005). This finding is consistent with previous research which indicated that when the public is provided with limited information regarding criminal offences and asked a more generic question the

sentencing recommendations tend to be more punitive (Hough & Roberts, 1998; Doob & Roberts, 1983; Roberts, 1992; Brillon, 1988; Doble & Klein, 1989; Paulin, Searle & Knaggs, 2003). It is further acknowledged that this significant finding may be the result of the use of the 0 to 99 year sentencing span. If participants were given a more restricted sentencing range or more sentencing information this disparity may not have been apparent. Previous research has demonstrated that the more information participants are given with regard to sentencing options and guidelines the less punitive they become (Doble & Klein, 1989).

These findings when taken at face value suggest that the current sentence in Queensland for manslaughter is not an accurate reflection of societal beliefs as to an appropriate punishment for this offence. These results further suggest that research exploring society's beliefs regarding criminal sentencing may be beneficial. However as stated these more punitive results may also be a reflection of the limited crime information provided within this section of the research as compared to the scenario section which would be consistent with the findings of previous research (Hough & Roberts, 1998; Doob & Roberts, 1983; Roberts, 1992; Brillon, 1988; Doble & Klein, 1989; Paulin, Searle & Knaggs, 2003). As previously stated, the primary finding is consistent with previous research findings and our legal system, with the results indicating that sentence lengths vary across different crimes (La Pre, 2006; McKelvie & Coley, 1993; Wuensch et al. 1993; Bergeron & McKelvie, 2004; Australian Bureau of Statistics, 2005).

The second finding, that participant sentencing recommendations are significantly longer than the average sentences allocated within the legal system, is also consistent with previous arguments including suggestions that the public has lost confidence in the sentencing of offenders within our courts (NSW LRC, 2006). This suggestion that the public has lost confidence in the legal process and in the sentencing of offenders is highlighted by general indications that the public view sentencing as too lenient (NSW LRC, 2006), an argument that is supported by the current research findings.

It is suggested that a high level of the dissatisfaction is associated with public views on sentencing is the result of the perceived leniency of sentencing (Sweetman, 2006). This perception of leniency is argued to result from two key factors: firstly, an overestimation of the incidence of violent crime and secondly, the underestimation of the severity of the current sentencing practices (NSW LRC, 2006). These public perceptions are reported to be highly dependant upon the amount of information the public receives about the case in question and also about the legal process in general (NSW LRC, 2006). The public perception that sentencing is too lenient has been found to partially result from the media's portrayal of sentencing rather than being a reflection of the reality of sentencing (NSW LRC, 2006).

It has been argued that the public may also be confused regarding sentencing and its role within the legal system and that this confusion results from being deceived by the media about how much time offenders actually serve in prison (Mauer, 1996). The media has also being linked with suggestions that biased reporting of criminal offences and court

proceedings is resulting in an increase in public fear of crime, which in turn is related to public views that sentences handed down are not appropriate (Mauer, 1996). It is argued that generally the media does not provide sufficient information to the public in order for them to make a reasoned evaluation of the events, resulting in opinions that are being formed without any substantive knowledge of the criminal events or associated issues, which also results in difficulties accepting the sentences allocated by judges (Broadhurst & Indermaur, 1982). The media is reported to be selective with regard to what cases and sentencing outcomes it reports, which results in the public building an opinion based on minimal and often biased information (NSW LRC, 2006).

It has been further argued that the differences in sentences recommended by the public as compared to the courts may also be related to the public's lack of awareness with regard to the intricacies of the sentencing process and further that they do not understand the role of the parole and good behaviour aspects of sentencing (Mauer, 1996; Roberts, 1992; Smith, 1984). Research has indicated that public perceptions are not consistent across social groups with discrepancies relating to public level of education, SES, area of residence (rural vs. metropolitan), and gender and age (Walker et al. 1987), with individuals who are less educated, of lower SES, from rural areas, male and over 60 years of age being more punitive (Walker et al. 1987). These previous findings are consistent with current findings of a significant difference between participant sentencing recommendations and the average sentences assigned by the Queensland courts. It should not be forgotten that these results may also be influenced by the level of information presented within this section with previous research finding that the public

are more punitive with regard to sentencing when they are provided with a limited amount of information regard the offence (Hough & Roberts, 1998; Doob & Roberts, 1983; Roberts, 1992; Brillon, 1988; Doble & Klein, 1989; Paulin, Searle & Knaggs, 2003).

Participant Extra-legal Variables and Crime Definitions

The analysis of sentencing recommendations with regard to the crime definitions also explored whether extra legal factors including participant gender, victim history, age, JWB and LOCB significantly influenced the sentencing recommendations they made. The findings indicated that these variables did not significantly influence the sentencing recommendations made by participants, with the exception of participant victim history significantly influencing sentencing for the murder definition. It was hypothesised that these factors may affect the sentencing recommendations based on previous research however; the current findings were generally not supportive of this hypothesis.

Impact of Gender of Participants

With regard to the initial analysis, the findings indicate that the gender of participants does not significantly impact upon the sentences recommended when participants were asked to sentence for crimes based on crime definitions. This is not consistent with the findings of Walker and colleagues (1987) that males were more punitive than females or

with the research by Fisher (1997) that females and males voted differently in simulated juries on rape cases.

It is important to acknowledge that the current study differs from the previous research in three major ways: firstly, that it did not explore the outcomes of jury or mock jury decision-making but rather the independent evaluation of participants, secondly, the current study is evaluating sentencing decisions and not decisions relating to guilt or innocence and thirdly participants were Australian and not American. The finding that gender was not significantly influential with regard to sentencing recommendations may be an indication that the internal decision making processes are different for sentencing as compared to guilt decisions. The current findings would support the need for further research comparing the different jury decisions.

These results may also suggest that gender is only influential in sentencing decisions and recommendations when additional information is provided about the offence, or in cases involving sexual offences, as opposed to the crime definitions provided in the initial analysis (Walker et al. 1987; Fisher, 1997). The present study intentionally excluded sexually based offences therefore the hypothesis relating to whether participants view these types of offences differently cannot be assessed. The main analysis within this study, included a crime scenario i.e. extra information in order to determine whether the gender of participants is a factor in sentencing recommendations when they are provided with crime information. The level of crime information has been considered an important variable within previous research that has suggested that decisions regarding guilt and

sentencing are affected by the interactions between the juror, the defendant and the victim (Nagel & Weitzman, 1972; Ferraro, 1997; Turow, 2003; Fairchild & Cowan, 1997; Parloff, 1997; Colfax, 2003; Turner, 1996; Mazzella & Feingold, 1994; Bergeron & McKelvie, 2004; Champion, 1987; Abwender & Hough, 2001; Dillehay, 1999; Narby et al. 1993; Bray & Norbert, 1979; Phares & Wilson, 1972).

The lack of crime information in the initial analysis would not allow participants to identify with or make assumptions regarding the crime parties (victim or defendant) and therefore they would not be compelled to use any of the cognitive mechanisms that have been related to these decisions, including; victim identification, victim blaming, attribution of blame, the impact of stereotypes, utilisation of JWB or LOCB and situational relevance (Schneider et al. 1979, Asch, 1946; Fiske, 1980; Fishbein & Ajzen, 1974; Petty & Krosnick, 1994; Festinger, 1957; Kelley, 1973; Brogdon, 2003; Wrightsman et al. 2002; Sabini, 1995; Wenner & Cusimano, 2000; Workman, 1999; Hillier, 1993). However it should be noted that simply identifying a crime would potentially result in stereotypes about the crime itself, the type of offenders that commit the specified crime and the potential impact that the crime has on victims. The secondary analysis aimed to explore these factors in greater depth.

Finally, the results may also be a reflection of the different types of decisions being made in individual as compared to the group decisions that have been used in the previous mock jury research. It is possible to argue based on decision making theories that when people are in a mock jury situation they are potentially influenced by the other group

members and the majority view which may in turn impact on the outcomes. In contrast, in the current study the participants made independent decisions devoid of direct external influences. It is possible that when individuals are left to make decisions regarding sentencing independent of any specific crime information that there is no difference with regard to gender, but when in a group situation the dynamics change. For example, people may assume gender roles, and as a result, the male participants may take a harsher stance consistent with Walker and colleagues (1987) findings. Gender roles have been highlighted as being influential in the way victims are viewed by participants (Wikler, 1987; Ferraro, 1997), so it may also be possible that traditional gender roles influence the ways in which people make decisions within the group scenario and that these influences are not present in individual decisions.

Future research could focus on exploring these identified variables, including the impact of gender upon sentencing when sexual offences are compared to violent personal or property offences, the impact of group versus individual sentencing decisions and also the differences between sentencing as compared to guilt decisions. Additional analysis may help to clarify the impact of gender on sentencing recommendations and would build upon the current studies findings, however this is not to suggest that future researchers should partake in a fishing expedition but rather that they could simply build on current research findings by exploring addition areas of concern relating to sentencing.

Participants' Victim History

Participants were asked to indicate in the demographic section of the questionnaire whether they had ever been a 'victim of a crime'. This question was included in order to explore whether a participant's victim history had an impact on the length of sentence they felt was appropriate for offenders. Victim history was considered a potential extra-legal variable within the sentencing process because it was hypothesised that, if an individual had a personal experience with both a criminal act and the legal system, that they may have a different perspective with regard to sentencing. This hypothesis was necessary, as previous research has not addressed this issue making it difficult to predict the specific impact victim history may have on sentencing recommendations.

Research relating to victim impact statements indicated that, until recently, victims of crime were considered by some to be the forgotten person within the legal system (Walker et al. 1987). Previous research suggests that being a victim of crime not only carries the potential for physical, psychological, emotional and financial loss and trauma (Ashworth, 1993; Dugger, 1996; Finn-DeLuca, 1994; Daubney, 1988), but that participation within the prosecution process may also carry its own negative impacts. In contrast to these potential negative experiences, research has stated that some victims of crime reported that through acts such as victim impact statements, victims experienced the legal process as in some ways therapeutic and that they often have an improved evaluation with regard to the sentencing decisions (Hinton, 1995; Wells, 1991; Ogilvie et al. 2000). Based on these findings it was hypothesised that the potentially negative or alternatively positive experience of being intimately involved in the legal process could impact upon participants' general views relating to sentencing.

The analysis of the extra-legal factor of victim history indicated that, whether a participant identified as being a victim of crime or not did not have a significant impact upon the sentence they recommended for the crime definitions. This significant finding suggests that whether participants identified as being a victim of crime or not significantly affected the sentence lengths they recommended. The findings specifically indicated the participants who identified as being victims of crime allocated longer sentence lengths than participants who identified as being non-victims. The high level of variability within the sentencing recommendations for this crime definition suggests that it should be considered with a level of caution.

Research has indicated that television coverage of crime and sentencing affects public perceptions of crime rates and the appropriateness of sentencing (Pfeiffer, Windzio & Kleimann, 2005). Research has also suggested that most people derive their information relating to sentencing and criminal behaviour from the news and popular media and that reviews of media content reveal an over-representation of crimes of violence and sentences of imprisonment (Roberts & Doob, 2005, Mauer, 1996). Biased media coverage may therefore have an impact on sentencing recommendations.

Although the findings do not support the hypothesis that victim history would have an impact on sentencing recommendations, it is important to note that this information acts as a valuable contribution to the area of sentencing. When participants who identified as being victims of crime were compared to participations that identified as being non-

victims it was found that there was no significant difference in sentencing recommendations. This finding, suggests that victim history may not be an extra-legal variable, when sentencing for crime definitions that lack contextual crime, defendant, and victim information. The main analysis aimed to address this hypothesis by exploring whether victim history resulted in significantly different sentencing recommendations in response to a crime scenario.

Overall, the current findings suggest that victim history, or more specifically, a participant's identification as being a victim of a crime, did not significantly impact upon sentencing recommendations made with regard to the crime definitions assessed. Future research in this area may meaningfully contribute to this finding by clarifying what participants meant when they indicated that they were a 'victim of crime' and also by comparing, as previously suggested, the sentencing recommendations made by victims for different crime types, such as sexual, violent or personal offences, as compared to crime relating to property such as theft or robbery. Research exploring whether there is relationship between the offence(s) the victim personally experienced and the sentencing recommendations, the crime seriousness or alternatively how property offences compare to offences against the person when sentencing is considered may further expand this analysis. For example, comparing the sentencing recommendations for rape victims and non-victims for the crime of rape would be valuable. Other areas of interest may include comparing victims in cases where the perpetrator went to jail to those where the offender was not punished, and comparing positive versus negative victim evaluations of their

experience of the legal system (what factors contribute to a positive experience) and punishment recommendations.

Participant Age

Participant age was included within the analysis of sentencing for the crime definitions as a covariate. An analysis of all of the potential variables as independent variables would require a substantial increase in the number of participants. Research by Walker and colleagues (1987) found that people over the age of 60 years were more punitive when compared to the other age groups. Previous research has also found that the age of defendants has a significant impact on the sentences they receive highlighting the impact of age on sentencing (Bergeron & McKelvie, 2004, Champion, 1987; Wilbanks, 1988; Cutshall & Adams, 1983). The mean age of the participants was 41 years. In contrast to the hypothesis, the MANCOVA analyses found that participant age had no significant impact on the sentences recommended for any of the crime definitions presented. Previous research has suggested the potential for an age-based discrepancy (Walker et al. 1987), however the majority of the research on age and sentencing is based on the impact of the defendant's age and not the participants' age (Bergeron & McKelvie, 2004, Champion, 1987; Wilbanks, 1988; Cutshall & Adams, 1983). The current findings suggest that the age of participants does not impact on their sentencing recommendations for crime definitions. As previously stated, the main analysis expands upon this initial finding by exploring whether participant age has an impact on sentencing when participants are considering a crime.

Participant Just World Beliefs

One of the aims of the current study was to explore the impact of participants' JWB upon the sentencing recommendations made with regard to the criminal offence definitions. Within the first analysis, participants' JWB were included as a covariate. Participants' JWB were rated using Rubin and Peplau's (1975) Just World Beliefs scale. The mean score for participants on the variable of JWB indicated a generally balanced view of the world as not being completely just or unjust. The analysis of the impact of participants' JWB upon the sentences they recommended for the crime definitions found that JWB had no significant impact on sentencing recommendations.

In the current study, the participants on average held neither a just or un-just view of the world. People with a balanced view of the 'justness' of the world may believe that the good are rewarded and the bad punished but they would also understand that the world is not always fair and that sometimes good people go unrewarded and bad people unpunished (Rubin & Peplau, 1975). The lengthy sentencing recommendations made in response to the crime definitions, superficially appears to be consistent with a JWB where the guilty should be punished, however JWB were not found to have a significant effect on sentencing recommendations.

It could be suggested that when participants are provided with a crime definition, the level of information provided does not result in any internal conflicts regarding justice

and punishment, as there is no victim, no obviously identifiable defendant and no information relating to what occurred within the offence apart from the general crime title. It may therefore be possible that participants do not need to draw upon or question in any way their JWB to make a decision relating to sentencing for the crime definitions. It is also important that participants were not asked to justify their sentencing recommendations in any way, which means that they are free to draw upon any of their internal beliefs when making the decision. This ability to make a recommendation without justification may have potentially contributed to a reduction in the amount of conscious and purposeful thought that went into the decision being made and may also account for differences in outcomes for mock jury research when a participant is anonymous and does not have to explain themselves or their decisions.

Future research would benefit from comparing sentencing recommendations made by participants who did and did not have to explain their decision. The hypothesis relating to whether the level of information provided within a crime definition is sufficient to elicit the desired variability in sentencing recommendations has been tested within the main analysis.

Participant Locus of Control Beliefs

Previous research has considered the impact of LOC on a number of areas from health decisions to beliefs about success, but research does not appear to have specifically examined the impact of LOC beliefs on sentencing recommendations. The current

research assessed the impact of LOC beliefs and on sentencing recommendations for crime definitions contributing to the uniqueness of the study.

For the present study, the mean participant rating with regard to LOC on Rotter's (1966) Locus of Control Scale indicates that participants on average had neither a strong internal or external belief relating to LOC. The current analysis has also found that participants' LOCB did not have a significant impact on the sentencing recommendations they made with regard to the crime definitions.

In the initial analysis, the sentencing decisions were based on a crime definition only and lacked situational context and details relating to any specific crime. With regard to LOC theory, this may suggest that when people do not have contextual information, victim or defendant to consider with regard to potential rewards or punishments then they do not need to draw upon or question their LOCB. A crime definition presents no risk to the participant of future punishment in the form of their own victimisation, or risk of public scrutiny with regard to the outcome of their decision and also, as all of the results were confidential, there was also limited possibility for any rewards or positive reinforcement. The hypotheses that the level of information provided in the initial analysis was not sufficient to result in significant variation in results was tested in the main analysis where the impact of participant LOC was assessed in response to the crime vignette. The results indicated that there was no significant difference in the sentencing recommendations made by participants for the crime definition as compared to the crime vignette.

In addition to the potential impact of limited information, there was also the previously stated concern that participants did not have to invest personally into their decision because the potential for rewards or punishments was not high. This potential lack of personal investment may also have been increased by the fact that participants were not required to explain their recommendations. As previously stated, future research could aim to build upon the current findings by exploring the sentencing recommendations of participants when they do and do not have to explain their recommendations to see if this in fact has contributed in some way to the current findings. In addition, they could also explore the impact of social or other rewards and punishments on sentencing recommendations in order to explore the impact of perceived outcomes on the recommendations made and how they correlate with LOCB.

Previous Knowledge

A potentially influential variable not manipulated within the current study was the impact of participant prior knowledge and experience. The researcher sought to explore sentencing for criminal offences based on a generic definition. However participants' previous level of knowledge regarding these offences was not assessed nor controlled for. In order to reduce the impact of prior knowledge, all participants were provided with crime definitions to read within the questionnaire prior to making their sentencing recommendations.

Future research within this area may seek to clarify participants' previous experience and knowledge of criminal acts prior to making sentencing recommendations in order to determine whether differing levels of knowledge and understanding impacts upon the sentencing recommendations made. It is theorised that previous knowledge may be a significant factor based on previous research that indicated that the level of information individuals are given and the influence of the media impact upon beliefs regarding sentencing (NSW LRC, 2006; Mauer, 1996; Hough & Roberts, 1996; Doob & Roberts, 1983; Roberts, 1992; Brillion, 1988; Doble & Klein, 1989; Paulin, Searle & Knaggs, 2000). The current study clearly indicates that for the participants assessed, their gender, age, victim history, JWB and LOCB were not significant factors in the sentencing recommendations for the crime definitions. These results indicate that when people are presented with limited information, they do not significantly vary their interpretations of an appropriate sentence based on these internal/personal differences. In addition to these findings, the results also clearly identified that participants increased the sentence length recommended in response to different crimes and that the sentences they recommended for the crimes were significantly longer than the average sentences allocated within the Queensland courts, findings that are consistent with previous research and the research hypothesis.

Chapter 13

The Impact of Victim and Participant Characteristics on Sentencing

Recommendations for a Crime Vignette.

Previous research in the field of sentencing has found that the process of assigning a sentence length for a criminal offence is not always fair and impartial (Abwender & Hough, 2001; Colfax, 2003; Nagel & Weitzman, 1972). Specifically, research has indicated that when individuals are sentenced for an offence, extra-legal variables may impact upon the length of sentence assigned (Turow, 2003; Turner, 1996; Mazzella & Feingold, 1994; Nagel & Weitzman, 1972). The majority of research has focused upon those extra legal factors that are related to characteristics of the defendants (Turow, 2003; Turner, 1996; Mazzella & Feingold, 1994; Nagel & Weitzman, 1972). The defendant characteristics explored to date include race (Fairchild & Cowan, 1997; Parloff, 1997; Mazzella & Feingold, 1994; Colfax, 2003; Turner, 1996), age (Bergeron & McKelvie, 2004; Champion, 1987; Wilbanks, 1988; Cutshall & Adams, 1983), attractiveness (Mazzella & Feingold, 1994; Abwender & Hough, 2001; Wuensch & Moore, 2004; Jacobson, 1981; Jacobson & Popovich, 1983; Egbert et al. 1992; Moore et al. 1994), socio-economic status (Mazzella & Feingold, 1994; Gleason & Harris, 1976; Bray, et al. 1978; Gray & Ashmore, 1976; Osborne & Rappaport, 1985), and gender (Ferraro, 1997; Farrington & Morris, 1983; Poletti, 2000; Naylor, 1990; Turow, 2003). The research generally indicates that all these defendant factors potentially impact upon the length of sentence assigned to a defendant or impact upon a jury's determination of guilt or innocence. Research has focused less upon the impact of other extra-legal factors such as victim characteristics and juror characteristics.

Research relating to victim and participants extra-legal variables has drawn a number of conclusions including that females vote guilty more often in simulated rape cases (Fisher, 1997), that males generally sentence more harshly (Walker et al. 1987), that capital punishment is used three and a half times more often when the victim is female (Turow, 2003), that Anglo Saxon jurors often exhibit a bias against African American/indigenous defendants (Fairchild & Cowan, 1997; Parloff, 1997), that when a victim is Anglo Saxon the death sentence is imposed three and a half times or 11 percent more often than when the victim is African American (Wuensch et al. 2002, Turner, 1996), that jurors are more likely to find a defendant guilty when the victim is of the same race as themselves (Miller & Hewitt, 1978), that the death penalty is endorsed most often when the defendant is African American and the victim is Anglo Saxon (Turner, 1996), that people over 60, of lower education, lower SES and from rural areas tend to punish more harshly (Walker et al. 1987), and jurors who are more authoritarian tend to vote guilty and impose more severe sentences (Dillehay, 1999; Narby et al. 1993; Bray & Noble, 1979). These research findings and the findings relating to extra-legal variables, defendants and the impact on verdicts and sentencing have led to the current research project and the examination of the impact of some specific victim and participant variables on sentencing recommendations.

The current study specifically focused on the age and gender of victims and the age, gender, victim history, and personality characteristics (LOC and JWB) of participants with the aim of exploring whether these factors impact upon the sentence lengths

assigned for a crime vignette. The extra-legal variables have been considered below outlining the research findings and how they relate to previous findings.

Victim Characteristics

The main research analysis, as previously stated, aimed to explore the impact of a victim's age and gender on the sentencing recommendations made by participants who read a crime vignette. Victim characteristics were analysed because previous research analysing victim variables often appears to include it as a secondary analysis only and not as the primary focus of the study. Previous findings indicate that the gender of victims has an impact on sentencing, with more severe punishments being applied when the victim is female (Turow, 2003). Other research on defendants and jurors has identified age and gender as potential extra-legal variables (Dillehay, 1999; Narby et al. 1993; Bray & Nobel, 1979; Phares & Wilson, 1972), which has led to their inclusion in the current research project. The gender factor has also been explored with regard to jurors with findings indicating that males tend to sentence more harshly than females (Walker et al. 1987) but that in simulated rape cases females voted guilty more often than males (Fisher, 1997).

The extra-legal variable of victim age has not been considered as a factor in any of the research found after an extensive search. The age of defendants has however been found to be an extra-legal variable that influences sentencing or verdict outcomes (Bergeron & McKelvie, 2004). Other research has found that age of participants is also a factor in sentencing, with people over the age of 60 sentencing more harshly (Walker et al. 1987)

and older women sentencing more harshly than younger women in the crime of wife abuse (Larsen & Long, 1988; Nelson, 1988).

These research findings provided some indication that the gender and age of a victim may have some impact on how people view the crime and also how they sentence for the offence. In addition to these research findings, theories have been presented that appear to relate to how a victim may be assessed within a criminal situation. Research has previously assumed that when jurors are presented with a victim of crime that they identify with, they will experience feelings of sympathy for the victim and in response to these feeling they will seek retribution in the form of punishment of the offender (Sarnacki, 2002). This argument has, however, recently been refuted with researchers suggesting that when observers identify with a victim, the response is to distance himself or herself from that victim and not empathise with the victim (Sarnacki, 2002).

Research on victim blaming suggests that when a victim is similar to the observer (victim identification), the observer is more likely to participate in victim blaming, whereby a level of blame is attributed to an innocent victim in order for the observer to distance himself or herself from the identified victim (Brogdon, 2003). It is suggested that when an observer is presented with a victim that is similar to them, they will focus their attention on what the victim did or did not do in order to prevent the situation or offence (Sarnacki, 2002). This process of distancing oneself from a similar victim is a form of defensive attribution (Brogdon, 2003). Presumably, when an observer identifies with a victim they use defensive attribution (blame the victim) in order to distance themselves

psychologically from the victim and from the chances of suffering a similar fate. This process results in a level of blame being placed onto the victim (Brogdon, 2003).

This process of victim blaming has been strongly linked to beliefs related to whether the world is just (Wrightsman et al. 1995). The concept of an innocent victim is not consistent with a JWB and therefore when a person with high JWB is presented with an innocent victim, this results in two inconsistent beliefs being held simultaneously which in turn results in distress (Wrightsman et al. 1995; Sabini, 1995). People are motivated to reduce this distress and one way that they are able to do that is through victim degradation (concluding that the victim is in some way responsible for their situation) (Wrightsman et al. 1995; Sabini, 1995).

These findings suggest that if a participant identified with the victim they would sentence differently (potentially less harshly) than those who did not identify with the victim. The research has not however indicated how much information about a victim is necessary for victim identification to occur. The current study only provided information about the age and gender of the victim and although the research aim was not specifically to determine the level of victim information required to elicit a significant difference in responding, the analysis did include participant JWB as a variable.

The current study utilised ten different crime scenarios in which the age and gender of the victim were manipulated. The longest sentence length was allocated for the crime scenario describing a victim of the age of ten and of male gender and the shortest

sentence was allocated for the scenario describing a female victim within the late adult age category. However, the sentence differences across the ten scenarios were not significant.

With regard to the theory presented above, the results did not indicate any differences in sentencing recommendations in response to the variation of victim age and gender. These findings may suggest a number of things, including that these victim factors (age and gender) were not detailed enough to result in any form of victim identification, that these variables are not the most influential when observers are determining whether a victim is similar to themselves, or more generally that the participants did not consider the victim factors when making the recommendations. This hypothesis was formed based on previous research that found that the level of information individuals are given and media information can influence their beliefs regarding sentencing (Hough & Roberts, 1996; Doob & Roberts, 1983; Roberts, 1992; Brillion, 1988; Doble & Klein, 1989; NSW LRC, 2006; Mauer, 1996).

It was hypothesised that victim characteristics of age and gender would significantly impact on the sentence lengths allocated. This was not supported by the findings. The findings are in contrast to Turow's (2003) research results that indicated that in the United States of America, capital punishment was imposed three and a half times more often when the victim is female, suggesting a victim gender bias. This finding may be due in part to the difference in penalties used with the current study looking at sentence length and Turow's (2003) exploring the death penalty. Sentencing recommendations

and death penalty recommendations may be significantly different and may therefore not reveal consistent results. Future research could build on this finding by directly comparing these two decisions.

As previously stated, research has identified that the gender and age of defendants is a significant extra-legal variable. Therefore it was hypothesised that this may also be the case for the victim (Bergeron & McKelvie, 2004; Champion, 1987; Wilbanks, 1988; Cutshall & Adams, 1983). The current findings, however, suggest that when considering allocation of penalties, participants or jurors may be more focused on the defendant and factors related to them as opposed to the person whom they offended against. Although the research outcomes were unexpected, they provide insight into the area of sentencing and public perceptions regarding criminal offences. The present results suggest that in severe crimes such as manslaughter that the age and gender of a victim, while possibly considered by participants, does not result in their assigning a significantly longer sentence for the offence. The findings suggest that victim age and gender are not significant factors within the sentencing process. However, these findings may have resulted from a number of extraneous variables and would need to be developed further. It is possible that if a variety of offences were compared that a significant difference may have been found. Future research should aim to compare multiple offence types and victim characteristics.

The type of crime is not the only variable that needs to be considered. Participants may also be affected by events within the media around time of the study. The researcher is

not aware of any high profile cases that occurred or were extensively covered in the media during data gathering. During the period of data analysis, an eight-year-old girl was found sexually assaulted and murdered in a Perth shopping centre bathroom, resulting in a high level of national media coverage. Research has indicated that media coverage has a highly influential effect on public perceptions relating to sentencing (NSW LRC, 2006). In this instance it would have been interesting (although not possible due to time constraints, and confidentiality measures) to re-evaluate sentencing recommendations specifically with regard to the child victims.

When a crime occurs within society, it provides a level of context and realism that a scenario could never achieve. Future research may benefit from exploring sentencing recommendations made by participants with regard to a crime that has recently occurred and had been widely publicized. Exploring sentencing recommendations for a recent offence would be more realistic and would incorporate the natural emotional response that an offence elicits. This format would be difficult due to the inability to control the extraneous variables and participants' level of exposure to information about the case. Alternatively, research could seek to use historical crimes and provide participants with specific news articles and media reports prior to requesting a sentencing recommendation. Overall, one potential limitation within the present research is the relative lack of realism and also the potential lack of emotional responses elicited from the scenario.

Another methodological concern may be that providing such limited victim information (age and gender) was not sufficient to obtain a realistic participant response. The information provided within the scenario was restricted in order to guard against undue distress from participants and the influence of extraneous variables. It is possible that a considerable level of distress may be necessary to obtain a realistic participant response. People may only be able to form an opinion about a victim or defendant when they have a considerable amount of information on which to base that opinion. Turow's (2003) research explored the outcomes of real cases while the current study sought to obtain the same outcome within a controlled format of a response to a written crime scenario. The current finding was consistent with previous research by Doble and Klein (1989), which indicated that when less information is provided people become more punitive. Future research may seek to explore the sentencing outcomes of real cases within Australia to compare the age and gender of victims within the criminal events, as an alternative method of analysis.

In the current analysis, participants were only given one crime scenario to read and to provide a sentence for. Their sentencing recommendations were then compared to other participants' recommendations across the ten crime scenarios. These analyses provided a between subjects analysis but did not provide a within subject analysis which may reveal different results because of increased statistical power. If participants were presented with a number of crime scenarios in which the victim variables were modified it would be possible to compare whether individuals sentenced differently in response to those changes. This method was not used in the current study because it was felt that this

compromised a level of research control by introducing a number of extraneous variables, by changing the scenarios enough that participants were not aware of the target question or by potentially alerting participants to the research question. This may however be a valuable method to consider for future research in order to explore how the same person responds to different victims.

The findings from this analysis act as a stepping-stone within the sentencing field, assisting future researchers in concluding that a crime scenario that provides limited victim information may not be enough to elicit a significant difference in sentencing recommendations from the public. It also suggests that victim characteristics may not be a significant extra-legal variable, however before making this conclusion further research is required.

Participant Variables

Previous research has highlighted the need to explore how characteristics associated with jurors may impact upon the sentencing recommendations they make (Fisher, 1997; Wuensch et al. 2002; Miller & Hewitt, 1978). Although the present study did not use actual jurors within the analysis, all participants were eligible to act on a jury in that they were all of the required legal age or older. The focus in the present research is not whether a jury obtains a guilty finding, but rather it is about how the general population would sentence for a specific crime scenario. This research question is different to a number of previous research studies that have focused on the death penalty or

determinations of guilt (Colfax, 2003; Dugger, 1996; Eberhardt, 2006; Fisher, 1997). For example in Eberhardt's (2006) research she focused on the death penalty and explored the impact of a defendant's perceived 'blackness' on the likelihood that they would be sentenced to death, while Fisher (1997) explored the role of gender on mock jury guilty verdicts in simulated rape cases. The scenario provided general crime information and the gender and age of the victim. The results of this analysis were that these participant variables did not significantly influence sentencing recommendations. In other words, a participant's age, JWB and LOCB did not result in significantly different sentence lengths being allocated to the defendant. It was hypothesised that participants would sentence significantly differently as a function of these characteristics because previous research has suggested that juror characteristics, including personality factors, contribute to variability in trial outcomes (Fisher, 1997; Wuensch et al. 2002)

Participant Age

The ANCOVA analysis found that the age of participants did not result in a significant difference in the length of sentence allocated for the crime scenario. This is not consistent with previous research (Walker et al. 1987). However, this finding has positive implications for sentencing research, suggesting that the age of jurors/participants may not be significantly related to the length of sentence people feel a defendant deserves. This finding indicates that providing participants with information about an offence involving different victims did not result in any significant differences in sentencing recommendations as was hypothesised and suggests that beliefs relating to

punishment of offenders may be relatively consistent across the age groups for the local population.

It may also be that these findings are a reflection of participants attempting to display consistency. Participants were initially asked to sentence for the crime definition of manslaughter and this may have affected their sentencing for the crime scenario if participants were attempting to be consistent in their recommendations from one section of the questionnaire to the next. This hypothesis was tested when sentencing recommendations for the crime definition of manslaughter was compared to the sentencing recommendations for the scenario, which will be discussed later in this section.

Participant Gender

The analysis exploring the gender of participants found that male and female participants did not sentence significantly differently in response to the crime scenarios, a finding that again is not consistent with previous research. This finding would suggest that participant's sentence consistently regardless of their gender. In Fisher's (1997) research where gender of participants was found to be significant, the crime being analysed was rape. This may indicate that the type of crime has an impact on sentencing recommendations. Future research could aim to explore this hypothesis by comparing the responses of participants based on gender for sexual and non-sexual offences.

The current research outcome may be a function of a number of factors, including those discussed for the age variable and possible limitations within the present study. As previously noted, the results may be a reflection of a general social response with regard to sentencing, or less likely, to the general effect of local media influence. The results may also indicate again that the decisions relating to sentencing are significantly different from decisions related to guilt or allocation of the death penalty. Further the non-significant findings in response to the crime scenario included within the questionnaire may indicate that the scenario did not provided enough detail related to the crime, the defendant or victim to elicit a realistic emotional response and influence sentencing recommendations. The lack of significant results relating to this hypothesis may also be a function of participants attempting to demonstrate consistency from one section of the questionnaire to the next, or alternatively that there simply was no gender effect.

Participants Locus of Control and Just World Beliefs

The current research also explored whether participants' JWB and LOCB impacted on sentencing recommendations. It was hypothesised that these personality characteristics would significantly impact on the sentencing recommendations in response to the crime scenario. With regard to the participant's LOCB, LOC theory states that we each have a belief about the level of control we have over the world around us. The current results indicated that participants' LOCB did not significantly influence the sentencing recommendations they made, which is not consistent with the hypothesis.

With regard to JWB, previous research indicates that certain personality characteristics within each of us may impact upon our evaluations of criminal events and the corresponding punishments (Wrightsmann et al. 2002). The current research specifically focused upon participants' beliefs about the world being just and their level of control within the world. Once again, the present study found no association between JWB and length of sentence.

The findings that JWB and LOCB do not significantly affect sentencing outcomes, which was not consistent with the research hypothesis, suggests that participants were not influenced by internal beliefs. One explanation for this finding is that participants were simply assigning a sentence length that was consistent with the sentence that was allocated for the crime definition section of the questionnaire. Alternatively it is possible that participants did not want to appear to be inconsistent, even though their results were confidential. Finally participants did not have to provide any clarification or explanation as to why they sentenced in the way they did, that they may have chosen consistency over lengthy consideration of the crime variables.

Research on stereotyping has suggested that both jurors and the general public may assign positive or negative stereotypes to offenders or victims and that these stereotypes may impact upon the level of responsibility attributed to each party within the criminal situation (Khan, 2002). Stereotypes are reportedly utilised within our decision-making processing within a trial, or when we are responding to media information about a criminal event (Larson, 2004). Stereotypes reportedly relate to evaluations of guilt or

innocence and also to our response to the punishments allocated to offenders (Larson, 2004). If the scenario did not provide enough information, participants might have been unable to develop any meaningful assessments of the parties involved within the scene.

When considering psychological theories in relation to the findings, victim-blaming theory argues that when we assess a criminal event we each apply a level of blame or responsibility to the victim and to the defendant. It is theorised that rather than people feeling sympathy for victims of crime, they may focus their attention on what the individual did or did not do to prevent their situation (Sarnacki, 2002). This attribution of blame to the victim allows onlookers to distance themselves from the victim while also supporting the internal assumption that they would have reacted differently if they were placed under the same or similar circumstances (Sarnacki, 2002). This theory directly relates to the research about JWB in that, people who believe in a JW where good things happen to the good and bad people are punished, may seek to strengthen this belief when making decisions about a criminal event by attributing blame to a victim.

The current findings are not consistent with this theory, as the sentencing recommendations made by participants did not significantly vary as a result of their JWB or LOCB. This non-significant finding may be supported in some ways by the JWB research, if it is assumed that participants were unable to identify with the victim or the defendant within the scenario and that as a result they did not develop any strong emotional response to either the victim or the defendant, then this lack of response could potentially have impacted on the sentence they recommended.

Furthermore, attribution theory indicates that 'situational relevance' is a key factor in the process of victim blaming or identification (Chaikin & Darley, 1973). This theory argues that when people assess a crime, the perceived probability that they may find themselves in a similar situation in the future contributes to the level of responsibility assigned to the victim (Chaikin & Darley, 1973). The scenario used within the questionnaire may not have described a scene that the participants felt they were likely to experience (a store owner robbery), therefore reducing the impact of allocation of responsibility and victim blaming. Future research may benefit from describing a more general scene such as an offence occurring in a park or a shopping centre that people may be able to better relate to.

This suggestion that the content of the scenario may have limited the outcomes is only one of the possible reasons for the non-significant findings. It was not thought initially that this would be an influential factor because the format of the scenario and the general content was simply a modification from the Rachlinski and Jourden (2003) study, which obtained significant outcomes with regard to participant recommendations. It should also be noted that restricting the information within the scenario assisted with improving the level of control within the study, and reduced the potential for participant distress. Overall it is acknowledged, that the restricted information provided might have potentially hindered normal emotional responses that may result from a more detailed scenario or a real life situation however the findings should not be dismissed as they

clearly indicated that JWB and LOCB did not significantly impact on the sentencing recommendations.

The current study did not explore the decision-making processes of the participants, only the outcome in the form of their sentencing recommendations. As reviewed within the introduction, the decision making process can be extremely complex when we are considering criminal events and the allocation of punishments (Chesterman, 1999; Kalven & Zeisel, 1966; Ellsworth, 1989). It is possible that if just world beliefs and locus of control beliefs do not significantly impact upon sentence allocation, then the decision-making process that participants engage in may need to be an alternative focus of future investigations. As stated, the current research differed from previous research not only in the format of the decision-making (individual as compared to group) but also in some cases the type of decision being made (sentencing as compared to guilt). Future research could build on the current information and findings and explore in more depth the implications of these differences.

Participant's victim of crime status

An additional analysis included within the research study focused upon exploring whether participants' history, more specifically whether participants identified as being a victim of crime, had a significant impact upon the sentences allocated for the crime scenario. The initial analysis found that for crime definitions, participants' victim history did not significantly impact upon the sentences they recommended. The main analysis

sought to explore whether participants who identified as being victims of crime sentenced differently when they were provided with a crime scenario to those who were not crime victims. The results found that there was no significant difference in the sentence allocations between these groups for the crime scenario.

It is possible that regardless of our personal history, our beliefs about crime and punishment are consistently maintained. This finding may also suggest that grouping all victims under the one heading is not entirely appropriate, given the argument that victims can have different experiences within criminal offences and the legal process (NSW LRC, 2006). As this research project was only aimed towards providing a general overview of whether the identified extra-legal variables impacted on sentencing, victims were not divided into specific groups, for example, those who had been victim of violent, sexual or personal offences as compared to those who had been victims of property offences. The current study collected data on the crimes participants experienced however due to limited numbers within the different crime groups and the majority of participants failing to indicate a crime type it was decided that analysis on this data would not be appropriate. It is possible that even these two major groups may be distinctly different in their sentencing recommendations. Furthermore, the research relating to victim impact statements clearly suggests that participation in the legal process can be therapeutic for some people and can increase their positive evaluations of the sentencing outcomes (NSW LRC, 2006). Therefore victims of crime may vary in their sentencing recommendations, dependant upon their experience of the legal system and perception regarding the outcomes of their case.

Following this same argument, a victim whose perpetrator was punished may have a different view to a victim whose perpetrator was not identified or punished. Finally, the sentencing recommendations of victims may vary in response to the crime being analysed. If, for example the crime is the same or similar to the offence they experienced, they may have a different response to a victim who was involved in a completely different offence. Overall, this information suggests that the non-significant finding may simply be the result of a cancellation effect with some victims responding with reduced sentences and some responding with more severe sentences.

Participants within the current study were asked to self-rate whether they had been a 'victim of crime', and were asked to identify what crime had been committed against them. Those who identified as being victims were not grouped in anyway with regard to the type of crime perpetrated against them due to most participants failing to indicate a crime type and limited numbers within the crime groups indicated. Future research should aim to more clearly classify participants into categories based on the type of crime perpetrated against them (i.e. violent versus property offences) and conduct a comparison of these groups based on their sentencing recommendations.

Sentencing Recommendations for the Crime Definition Versus the Crime Scenario.

A final component of the current project was to clarify whether the scenario resulted in a significant difference in sentencing when compared to the generic crime definition. It has

been suggested throughout this discussion that one potential limitation to the current study could have been the level of detail within the crime scenario, with the scenario not being detailed enough to elicit a significant enough emotional response, or that alternatively participants may have wanted to appear consistent in their sentencing recommendations from the crime definition to the crime scenario, and as a result, did not significantly vary their sentencing recommendations. Previous research has indicated that the level of information presented to participants when requesting sentencing recommendations has a significant impact on how punitive participants recommendations will be (Hough & Roberts, 1998; Doob & Roberts, 1983; Roberts, 1992; Brillon, 1988; Doble & Klein, 1989; Paulin, Searle & Knaggs, 2003). Based on these previous findings participant recommendations should have varied from the crime definition (limited information) to the crime scenario (detailed information of a specific crime) however the findings did not support this assumption.

The findings from this analysis indicated that participants did not sentence significantly differently for the crime definition (manslaughter) and the crime scenario. This finding indicates that participants were consistent in their sentencing recommendations.

Alternatively this result could also have been effected by factors such as the crime scenario utilised within the questionnaire may not have provided enough detail, may not have been a scenario that people would relate to real life circumstances, or it may be a reflection of participants desire to appear consistent, or it may be that both the crime definition and the crime scenario resulted in a valid reflection of how participants viewed sentencing. The scenario was based on previous research by Rachlinski and Jourden

(2003), in which it rated as being of moderate severity. This scenario was included based upon this finding and the belief that it would provide participants with some crime context that is missing from a basic definition of an offence, which indicates that it should have been sufficient to obtain significant findings. It was therefore assumed that the scenario would be adequate for the current research project. The previous research findings would strengthen the argument related to participant consistency as compared to insufficient crime information as the reason for the non-significant findings.

Chapter 14

Potential Impact on the Criminal Justice System and Future Recommendations

Potential Impact on the Criminal Justice System

The findings from the current research project will hopefully help initiate and guide changes within the criminal justice system. One specific area where a meaningful contribution can be made is with regard to the recommended alternative role for jurors within the legal system as proposed by His Honour Spigelman (NSW LRC, 2006). It was suggested that by increasing the role of jurors to include consultation with the presiding judge regarding sentencing, that this would improve public understanding of the legal system and that in turn it would also help to improve overall public confidence in sentencing (NSW LRC, 2006). Some of the initial concerns regarding this new juror role were related to the possible bias that jurors may bring to this consultation process. The current findings however suggest that the public although generally more punitive than the current legal guidelines allow, did not appear to be significantly influenced by the number of extraneous legal variables examined.

These findings although only preliminary in terms of the overall picture do suggest that jurors may be able to effectively contribute within this newly proposed role without being significantly biased by extra-legal variables and their personal characteristics.

Additionally the research findings suggest that public education regarding sentencing and how different components of the legal system function is overdue. The sentences

recommended by participants were significantly longer than those allowable within the legal system, and it is possible that one of the reasons for this finding is that the public have a limited understanding of the sentencing process and the sentencing guidelines that judges are required to work within, which may in turn relate to public dissatisfaction regarding the sentencing outcome.

When the media reports sentencing outcomes reporters often fail to state the maximum allowable sentence for that offence and also the impact that probation, good behaviour etc. will have on the overall time served. Improved public education relating to the sentencing process will hopefully increase public acceptance of the courts outcomes or alternatively will initiate public facilitation of change within the sentencing process so that it is more reflective of public opinion. One way in which to improve public understanding of the legal system is through accurate, non-biased, consistent media reports. Additionally increased education could be achieved through juror education and public distribution of appropriate information.

Overall these findings should present as a healthy reminder to legal representatives that public opinion is an important factor within the legal process and that the general public appear to have a healthy non-biased opinion regarding sentencing when considering extra-legal variables of victim age and gender and that juror factors such as their JWB, LOCB, age, victim history, and gender may not have a significant impact on their sentencing recommendations.

Future Research Recommendations

The current research project provided information and directions that have contributed to the area of sentencing and extra-legal variables. The information obtained also raised a number of questions that could be addressed in future research studies. The future research recommendations made within this study have been summarised below.

Future research should aim to: -

- Explore the impact of participant and victim extra-legal variables on sentencing for different crime types including sexual, violent, personal, and property offences.
- Explore whether there is an interaction between sentencing recommendations for victim groups based on the type of crime they had experienced and the type of crime they are sentencing for.
- Explore cross-cultural differences in sentencing recommendations and personal beliefs (locus of control and just world beliefs).
- Compare sentencing recommendations made by participants based on whether they do or do not have to explain the reasons for their recommendations and to explore the reasons themselves.
- Compare sentencing decisions to decisions determining guilt.
- Explore the impact of participant knowledge of the legal system and sentencing.
- Explore sentencing recommendations for real crimes.

- Explore sentencing recommendations when each participant sentences for the different victim groups.
- Compare the impact of different crime scenarios in order to assess the impact of situational relevance on sentencing recommendations.

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Appendices

**Appendix
A**

Questionnaire

Number:-

Date:- _____

Demographic Information

Age:- _____

Gender:- _____

Education level (please circle):-PRIMARY SECONDARY TRADE TERTIARY

Have you ever been on a jury? YES NO

If yes how many times? _____

Have you ever been a victim of crime? YES NO

If yes was it a violent crime? YES NO

What type of crime? _____

Have you known a victim of crime? YES NO

Was this a close relationship? YES NO

Type of crime? _____

Disclaimer

The following questionnaire is designed to explore sentencing. The information contained in the scenario describes a crime scene in which a person has been murdered during a robbery, details have been limited to the facts and only relevant descriptive information has been provided. If you feel that reading this scenario would cause you distress please stop reading now and return your information in the envelope provided.

Appendix B

Definitions

Please read the following definitions of crimes, as classified in Australia as this will assist you in completing the questionnaire.

The definitions of the types of crimes were taken from Butterworths Concise Australian Legal Dictionary (Nygh and Butt, 1997).

Burglary:- *The statutory offence of entering a building as a trespasser (or without consent from the owner) with intent to steal anything in the building or commit some other offence in the building.*

Arson:- *The offence of wilfully and unlawfully setting fire to property.*

Theft:- *A term normally describing the offence of stealing or larceny.*

Stalking:- *Following a person, or watching or frequenting the vicinity of a person's place of residence, business, or work, or any place the person frequents for social or leisure activities.*

Assault:- *An act that intentionally or recklessly causes another to sustain immediate and unlawful personal violence.*

Aggravated Assault:- *An assault of a more serious nature than a common assault because of an aggravating circumstance, such as an assault accompanied by an intention of a particular kind or performed in a particular manner, an assault committed upon particular classes of persons, or an assault resulting in harm of a particular kind.*

Grievous Bodily Harm:- *causing bodily injury of a really serious kind.*

Kidnapping:- *To lead, take, or entice a person away, or to detain an individual with intent to hold them for ransom, as a hostage or for the purpose of inducing compliance with a demand or obtaining any advantage.*

Murder:- *the unlawful killing of a human being with the intent to kill or do grievous bodily harm.*

Manslaughter:- *every unlawful killing, which is, not murder. Manslaughter is always an available alternative to murder.*

Appendix C

Sentencing

Please indicate for each of the following crimes what sentence you feel is appropriate on the scale provided.

<u>Crime</u>	<u>Number of years sentence</u> <i>0 to 99 years</i>
Burglary:-	Number of years sentence (0-99):- _____
Arson:-	Number of years sentence (0-99):- _____
Theft:-	Number of years sentence (0-99):- _____
Stalking:-	Number of years sentence (0-99):- _____
Assault:-	Number of years sentence (0-99):- _____
Aggravated Assault:-	Number of years sentence (0-99):- _____
Grievous Bodily Harm:-	Number of years sentence (0-99):- _____
Kidnapping:-	Number of years sentence (0-99):- _____
Manslaughter:-	Number of years sentence (0-99):- _____
Murder:-	Number of years sentence (0-99):- _____

Appendix D

Alternative Crime Scenarios

Scenario

The defendant has pleaded guilty to manslaughter, breaking and entering, and robbery. Testimony at the trial has been supported by video footage from a surveillance camera. The video revealed that the suspect broke into the jewellery shop in the early morning hours, in an apparent burglary attempt. The suspect admitted that the plan was to rob the store and that he believed the store would be empty due to the morning hour. However, on the morning in question the store owner happened to be inside conducting inventory in preparation of a sale due to start that day. The owner had his 10-year-old son, with him as it was prior to school commencing for the day. The video confirms that as the defendant was placing stolen items into a sack, when the child entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the little boy in a panic. The defendant then fled the store. The child died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on the gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

Scenario

The defendant has pleaded guilty to manslaughter, breaking and entering, and robbery. Testimony at the trial has been supported by video footage from a surveillance camera. The video revealed that the suspect broke into the jewellery shop in the early morning hours, in an apparent burglary attempt. The suspect admitted that the plan was to rob the store and that he believed the store would be empty due to the morning hour. However, on the morning in question the store owner happened to be inside conducting inventory in preparation of a sale due to start that day. The owner had his 10-year-old daughter, with him as it was prior to school commencing for the day. The video confirms that as the defendant was placing stolen items into a sack, when the child entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the little girl in a panic. The defendant then fled the store. The child died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on the gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

Scenario

The defendant has pleaded guilty to manslaughter, breaking and entering, and robbery. Testimony at the trial has been supported by video footage from a surveillance camera. The video revealed that the suspect broke into the jewellery shop in the early morning hours, in an apparent burglary attempt. The suspect admitted that the plan was to rob the store and that he believed the store would be empty due to the morning hour. However, on the morning in question the 25-year-old female store owner happened to be inside conducting inventory in preparation of a sale due to start that day. The video confirms that as the defendant was placing stolen items into a sack, when the storeowner entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the woman in a panic. The defendant then fled the store. The storeowner died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on the gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

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the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the women in a panic. The defendant then fled the store. The storeowner died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on the gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

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Scenario

The defendant has pleaded guilty to manslaughter, breaking and entering, and robbery. Testimony at the trial has been supported by video footage from a surveillance camera. The video revealed that the suspect broke into the jewellery shop in the early morning hours, in an apparent burglary attempt. The suspect admitted that the plan was to rob the store and that he believed the store would be empty due to the morning hour. However, on the morning in question the 40-year-old female store owner happened to be inside conducting inventory in preparation of a sale due to start that day. The video confirms that as the defendant was placing stolen items into a sack, when the storeowner entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the women in a panic. The defendant then fled the store. The storeowner died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on the gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

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Scenario

The defendant has pleaded guilty to manslaughter, breaking and entering, and robbery. Testimony at the trial has been supported by video footage from a surveillance camera. The video revealed that the suspect broke into the jewellery shop in the early morning hours, in an apparent burglary attempt. The suspect admitted that the plan was to rob the store and that he believed the store would be empty due to the morning hour. However, on the morning in question the 65-year-old female store owner happened to be inside conducting inventory in preparation of a sale due to start that day. The video confirms that as the defendant was placing stolen items into a sack, when the storeowner entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the women in a panic. The defendant then fled the store. The storeowner died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found on a gun dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

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that as the defendant was placing stolen items into a sack, when the storeowner entered the shop area via a back entrance and startled the defendant. The defendant testified that he turned in shock and shot at the men in a panic. The defendant then fled the store. The storeowner died on route to the hospital from loss of blood. The defendant was apprehended when he attempted to sell the stolen jewellery at a nearby pawnshop a few hours later. The defendant's fingerprints were found a gun that was dropped at the crime scene. A witness identified the defendant from a line up and reported seeing the defendant fleeing the crime scene. The defendant had no previous convictions.

Appendix E

Locus of Control Scale

Please indicate on the 6-point Likert Scale how much you believe the statement.

1. Whether or not I get to be a leader depends mostly on my ability.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

2. To a great extent my life is controlled by accidental happenings.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

3. I feel like what happens in my life is mostly determined by powerful people.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

4. Whether of not I get into a car accident depends mostly on how good a driver I am.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

5. When I make plans, I am almost certain to make them work.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

6. Often there is no chance of protecting my personal interest from bad luck happenings.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
				<i>Disagree</i>	<i>Disagree</i>

7. When I get what I want, it's usually because I'm lucky.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

8. Although I might have good ability, I will not be given leadership responsibility without appealing to those in positions of power.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

9. How many friends I have depends on how nice a person I am.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

10. I have often found that what is going to happen will happen.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

11. My life is chiefly controlled by powerful others.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

12. Whether or not I get into a car accident is mostly a matter of luck.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

13. People like myself have very little chance of protecting our personal interests when they conflict with those of strong pressure groups.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

14. It's not always wise for me to plan too far ahead because many things turn out to be a matter of good or bad fortune.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

15. Getting what I want requires pleasing those people above me.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

16. Whether or not I get to be a leader depends on whether I'm lucky enough to be in the right place at the right time.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

17. If important people were to decide they didn't like me, I probably wouldn't make many friends.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

18. I can pretty much determine what will happen in my life.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

19. I am usually able to protect my personal interests.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

20. Whether or not I get into a car accident depends mostly on the other driver.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

21. When I get what I want, it's usually because I worked hard for it.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

22. In order to have my plans work, I make sure that they fit in with the desires of people who have power over me.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

23. My life is determined by my own actions.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>	<i>Strongly</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>		<i>Disagree</i>

24. It's chiefly a matter of fate whether or not I have a few friends or many friends.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Strongly</i>		<i>Somewhat</i>	<i>Agree</i>	<i>Somewhat</i>	<i>Disagree</i>
<i>Agree</i>		<i>Agree</i>		<i>Disagree</i>	<i>Strongly</i>
					<i>Disagree</i>

Appendix F

Just World Belief Scale

INSTRUCTIONS

Please read each statement on the following page carefully and then indicated with an X in the boxes next to the statements which answer most represents how you feel about the statement.

There is no right or wrong answer so please answer honestly.

Example: -

	Strongly Agree	Some what Agree	Some what Disagree	Strongly Disagree
Oranges are good for you?	X			

Just World Scale	Scale of Agreement vs. Disagreement					
Question	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree
I've found that a person rarely deserves the reputation he has						
Basically, the world is a just place						
People who get 'lucky' breaks, have usually earned their good fortune						
Careful drivers are just as likely to get hurt in traffic accidents as not careful ones						
It is a common occurrence for a guilty person to get off free in American courts						
Students almost always deserve the grades they receive in school						
Men who keep in shape have little chance of suffering a heart attack						
The political candidate who sticks up for his principles rarely gets elected						
It is rare for an innocent man to be wrongly sent to jail						
In professional sports, many fouls and infractions never get called by the referee						
By and large, people deserve what they get						
When parents punish their children, it is always for good reasons						
Good deeds often go unnoticed and unrewarded						
Although evil men may hold political power for a while, in the general course of history good wins out.						

In almost any business or profession, people Who do their job well will rise to the top						
American parents tend to overlook the things most to be admired in their children						
It is often impossible for a person to receive a fair trial in the USA						
People who meet with misfortune have often brought it on themselves						
Crime doesn't pay						
Many people suffer through absolutely no fault of their own						

**Appendix
G**



James Cook University, P.O. Box 6811, Cairns, Qld. 4870 Australia.

INFORMATION SHEET

**PROJECT: Factors that Influence Public Perceptions and Sentencing
Recommendations**

My name is Pauline Finch and I am a Doctorate psychology student from James Cook University, Townsville Campus. My Doctorate is in the area of Forensic Psychology. As part of my course requirement I am conducting a research project on factors that influence public perceptions and sentencing recommendations.

Your participation in this project will provide useful information on this topic. You qualify for participation if you are over the age of 18 years. If you wish to participate in the research you will be asked to complete a questionnaire and two self-report assessments. It is anticipated that the completion of these components will take approximately 20 minutes. The case scenario used in this questionnaire may be distressing and upsetting for some people. The scenario describes a crime scene and only includes relevant information. If you become upset or uncomfortable with the materials, please feel free to decline from participation at any point in this project. If, as a result of completing the questionnaire, you experience any distress, please do not hesitate to contact any of the following:

Lifeline: - Ph: - 13 11 14 (24 hour Telephone Counselling)

Centacare Cairns: - 40 51 95 11

Women's Information and Referral Centre Cairns: - 40 51 93 66

Salvation Army: - 40 41 72 29

If you have any questions regarding the research please contact either of the following: -

Pauline Finch: - 0414601861

Edward Helmes: - 47 81 51 59

If you have any questions regarding the ethical conduct of this project please do not hesitate to contact the Ethics Administrator, Tina Langford, using the contact details provided below.

Participation in this study is strictly voluntary. You may withdraw from the study at any time. The questionnaire is anonymous and all information will be strictly confidential. No names, addresses or any other identifying information is recorded or attached to the questionnaires so your responses cannot be traced to you. Findings from this research will be available from the researcher upon request. Please retain a copy of the identification (I.D) number attached to the consent form in order to obtain your individual results, should you want them.

Contact Details

Supervisor: Edward Helmes
Associate Professor School of Psychology
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Ethics Administrator: - Tina Langford
School of Psychology
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Fax: (07) 47815532
E-mail: Tina.Langford@jcu.edu.au

Research Ethics Number: - H 1966

**Appendix
H**



James Cook University, P.O. Box 6811, Cairns Qld, 4870 Australia.

INSTRUCTION SHEET

The large yellow envelope contains:

- Information sheet
- Instruction sheet
- Informed consent form
- Small white envelope
- Questionnaire
- Two self report assessments

1. Please read the **Information Sheet**
2. If you are interested in participating, please read the **Informed Consent Form**
3. If you wish to participate sign the **Informed Consent Form**
4. Place the informed consent form into the **Small White Envelope**
5. Complete the Questionnaire and the **Self-Report Assessments**
6. Place the completed questionnaire and assessments into the **Large Yellow**

Envelope

PLEASE NOTE: PARTICIPATION IN THE STUDY IS STRICTLY VOLUNTARY. YOU MAY WITHDRAW FROM THE STUDY AT ANY TIME.

Thank you for your participation

Supervisor: Edward Helmes
Associate Professor School of Psychology
Tel: (07) 47 81 51 59
Fax: (07) 47 81 51 17
E-mail: Edward.Helmes@jcu.edu.au

Researcher: Pauline Finch
B.Psych (Hons Class IIA), B.Social
Science (sociology)
c/: School of Psychology,
James Cook University
E-mail: Pauline.Finch@jcu.edu.au
Tel: 0414601861

**Appendix
I**



James Cook University, P.O. Box 6811, Cairns, Qld, 4870 Australia

<u>INFORMED CONSENT FORM</u>

Please read the information and statement below and sign if you agree to participate in this study. Place the signed Consent Form in the envelope provided and return it to the researcher. (Consent Forms are necessary for this type of study, and signed consent forms will be kept separate from the completed questionnaires to ensure your anonymity and confidentiality). Also please retain a copy of your personal I.D number below in order to obtain your personal results, should you want them.

RESEARCH ETHICS NUMBER: - H 1966

Study information: -

My name is Pauline Finch and I am a Doctorate psychology student from James Cook University, Townsville Campus. My Doctorate is in the area of Forensic Psychology. As part of my course requirement I am conducting a research project on factors that influence public perceptions and sentencing recommendations.

Your participation in this project will provide useful information on the topic of public perceptions and sentencing recommendations. You qualify for participation in this study if you are over the age of 18 years. If you wish to participate in the research you will be asked to complete a questionnaire and two self-report assessments. It is anticipated that the completion of these components will take approximately 20

minutes. The case scenario used in this questionnaire may be distressing and upsetting for some people. The scenario describes a crime scene and only includes relevant information. If you become upset or uncomfortable with the materials, please feel free to decline from participation at any point in this project.

Participation in this study is strictly voluntary. You may withdraw from the study at any time. The questionnaire is anonymous and all information will be strictly confidential. No names, addresses or any other identifying information is recorded or attached to the questionnaires so your responses cannot be traced to you. Findings from this research will be available from the researcher upon request. Please retain a copy of the I.D number attached to the consent form in order to obtain your individual results, should you want them.

I.D: _____

The aims of this study have been clearly explained to me and I understand what is wanted of me. I know that taking part in this study is voluntary and I am aware that I can stop taking part in it at any time and may refuse to answer any questions.

I understand that any information I give will be kept strictly confidential and that no names will be used to identify me with this study. I understand that if I have any questions about the research, or need to talk to the researcher after my participation in the study, I can contact the researcher at any time.

I confirm that I am 18 years of age or older. I have read the Information Sheet and the Consent Form and have had all my questions answered. Therefore, I give my written consent to participate in the study.

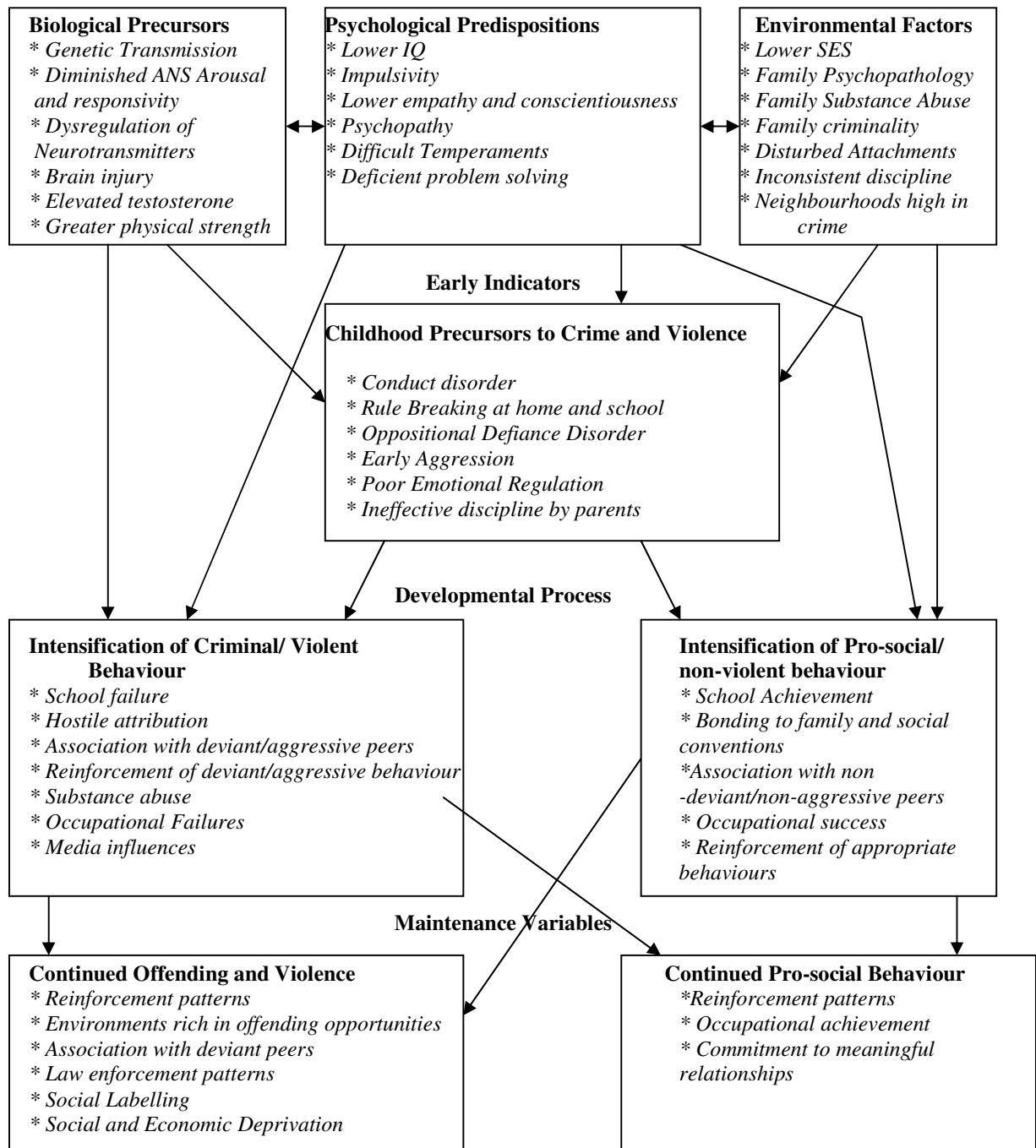
Signature:

Date:

Supervisor: Edward Helmes
Associate Professor School of Psychology
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E-mail: Edward.Helmes@jcu.edu.au

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**Appendix
J**
An Integrated Model for Explaining Repeated Crime
Distal Antecedents



Wrightsmann, Greene, Nietzel & Fortune (2002).

Appendix K

Burglary Descriptive Analysis of Sentence Recommendations

Victim History				
Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
<i>Male</i>	4.65	5.72	4.96	4.35
<i>Female</i>	5.15	6.79	5.45	8.89
<u><i>M</i></u>	4.96	6.23		
<u><i>SD</i></u>	7.34	8.15		

MANCOVA Analysis of Participants Perceptions of Crime P 0.001

MANCOVA RESULTS			
Variable	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.442	0.595	1
<i>Participant Gender</i>	0.764	0.090	1
<i>Interaction Between Gender and Victim</i>	0.998	0.000	1
<i>Participant Age</i>	0.053	3.802	1
<i>Just World Beliefs</i>	0.639	0.221	1
<i>Locus of Control</i>	0.194	1.701	1

Appendix L

Arson Descriptive Analysis of Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	8.53	10.72	8.52	6.42
Female	10.26	12.52	10.26	14.43
<u>M</u>	9.59	11.58		
<u>SD</u>	10.74	15.61		

Arson MANCOVA Analysis of Participants Perceptions of Crime P 0.001

Variable	MANCOVA RESULTS		
	<i>Significance</i>	<i>F</i>	<i>df</i>
<i>Participant Victim History</i>	0.510	0.435	1
<i>Participant Gender</i>	0.643	0.215	1
<i>Interaction Between Gender and Victim</i>	0.817	0.000	1
<i>Participant Age</i>	0.228	1.466	1
<i>Just World Beliefs</i>	0.639	0.221	1
<i>Locus of Control</i>	0.194	1.701	1

Appendix M

Theft Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	4.97	6.57	5.43	6.74
Female	5.63	9.10	6.28	12.02
<u>M</u>	5.38	7.77		
<u>SD</u>	8.18	15.03		

Theft MANCOVA Analysis of Participants Perceptions of Crime P 0.001

Variable	MANCOVA	RESULTS	
	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.254	1.309	1
<i>Participant Gender</i>	0.573	0.319	1
<i>Interaction Between Gender and Victim</i>	0.742	0.108	1
<i>Participant Age</i>	0.163	1.962	1
<i>Just World Beliefs</i>	0.655	0.201	1
<i>Locus of Control</i>	0.125	2.378	1

Appendix N

Stalking Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	5.61	6.35	5.82	8.16
Female	9.00	9.05	9.01	17.51
<u>M</u>	7.70	7.64		
<u>SD</u>	14.31	15.05		

Stalking MANCOVA Analysis of Participants Perceptions of Crime P 0.001

	MANCOVA	RESULTS	
Variable	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.972	0.001	1
<i>Participant Gender</i>	0.263	1.263	1
<i>Interaction Between Gender and Victim</i>	0.855	0.034	1
<i>Participant Age</i>	0.791	0.070	1
<i>Just World Beliefs</i>	0.472	0.518	1
<i>Locus of Control</i>	0.762	0.092	1

Appendix O

Assault Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	7.12	6.91	7.06	9.62
Female	8.90	11.69	9.42	13.35
<u>M</u>	8.22	9.19		
<u>SD</u>	12.62	15.71		

Assault MANCOVA Analysis of Participants Perceptions of Crime P 0.001

Variable	MANCOVA RESULTS		
	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.703	0.146	1
<i>Participant Gender</i>	0.237	1.407	1
<i>Interaction Between Gender and Victim</i>	0.592	0.289	1
<i>Participant Age</i>	0.730	0.119	1
<i>Just World Beliefs</i>	0.711	0.138	1
<i>Locus of Control</i>	0.373	0.798	1

Appendix P

Aggravated Assault Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	10.05	11.61	10.82	11.79
Female	12.55	14.79	12.55	15.68
<u>M</u>	11.78	13.13		
<u>SD</u>	13.53	16.42		

Aggravated Assault MANCOVA Analysis of Participants Perceptions of Crime P 0.001

Variable	MANCOVA	RESULTS	
	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.709	0.140	1
<i>Participant Gender</i>	0.465	0.537	1
<i>Interaction Between Gender and Victim</i>	0.955	0.003	1
<i>Participant Age</i>	0.663	0.190	1
<i>Just World Beliefs</i>	0.370	0.808	1
<i>Locus of Control</i>	0.313	1.024	1

**Appendix
Q**

**Grievous Bodily Harm
Descriptive Analysis of Participants Sentence Recommendations**

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	14.61	15.30	14.81	13.45
Female	16.87	17.76	17.04	16.32
<u>M</u>	16.01	16.48		
<u>SD</u>	14.55	17.39		

**Grievous Bodily Harm
MANCOVA Analysis of Participants Perceptions of Crime
P 0.001**

	MANCOVA	RESULTS	
Variable	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.973	0.001	1
<i>Participant Gender</i>	0.547	0.365	1
<i>Interaction Between Gender and Victim</i>	0.911	0.012	1
<i>Participant Age</i>	0.742	0.109	1
<i>Just World Beliefs</i>	0.400	0.712	1
<i>Locus of Control</i>	0.409	0.685	1

Appendix R

Kidnapping Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	23.75	26.61	24.58	24.14
Female	23.92	18.05	22.83	23.12
<u>M</u>	23.86	22.52		
<u>SD</u>	22.93	25.58		

Kidnapping MANCOVA Analysis of Participants Perceptions of Crime P 0.001

	MANCOVA	RESULTS	
Variable	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.540	0.877	1
<i>Participant Gender</i>	0.215	1.546	1
<i>Interaction Between Gender and Victim</i>	0.226	1.478	1
<i>Participant Age</i>	0.482	0.495	1
<i>Just World Beliefs</i>	0.381	0.774	1
<i>Locus of Control</i>	0.635	0.226	1

Appendix S

Manslaughter Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	26.35	22.15	25.14	24.03
Female	36.35	31.62	35.68	31.66
<u>M</u>	32.68	26.67		
<u>SD</u>	30.22	24.90		

Manslaughter MANCOVA Analysis of Participants Perceptions of Crime P 0.001

MANCOVA RESULTS			
Variable	<i>Significance</i>	<i>F</i>	<i>Df</i>
<i>Participant Victim History</i>	0.260	1.278	1
<i>Participant Gender</i>	0.095	2.818	1
<i>Interaction Between Gender and Victim</i>	0.849	0.036	1
<i>Participant Age</i>	0.768	0.087	1
<i>Just World Beliefs</i>	0.460	0.548	1
<i>Locus of Control</i>	0.334	0.940	1

Appendix T

Murder Descriptive Analysis of Participants Sentence Recommendations

Gender	Non-Victim	Victim	<u>M</u>	<u>SD</u>
Male	56.62	72.22	61.11	34.73
Female	68.13	71.60	68.77	34.11
<u>M</u>	63.72	71.92		
<u>SD</u>	34.70	33.37		

Murder MANCOVA Analysis of Participants Perceptions of Crime P 0.001

Variable	MANCOVA	RESULTS	
	<i>Significance</i>	<i>F</i>	<i>df</i>
<i>Participant Victim History</i>	0.260	1.278	1
<i>Participant Gender</i>	0.646	0.212	1
<i>Interaction Between Gender and Victim</i>	0.209	1.589	1
<i>Participant Age</i>	0.936	0.007	1
<i>Just World Beliefs</i>	0.104	2.667	1
<i>Locus of Control</i>	0.236	1.414	1

Appendix

U

Cairns Demographic Information

Age by sex and Gender

Age Groups						
Gender	0 to 14	15 to 29	30 to 44	45 to 64	65+	Total
Males	13,313	12,150	14,518	14,129	5,574	59,684
Females	12,722	12,819	15,085	13,449	6,174	60,249
Total	26,035	24,969	29,603	27,578	11,748	119,933

Annual Individual Income

Negative	\$1 to	\$8,319	\$15,600	\$31,200	\$52,000	\$78,000	Total
/ nil	\$8,319	to	to	to	to	over	
		\$15,599	\$31,199	\$51,999	\$77,999		
4,724	8,925	18,161	27,445	17,711	5,637	2,372	93,894

Type of Education

Type of Education	Highest Males	Education Females	Achieved Persons
Pre-school	916	833	1,749
Primary	5,832	5,584	11,416
Secondary	3,351	3,363	6,714
University	1,019	1,505	2,524
Tertiary institution	1,184	2,089	3,273
Other	255	474	729
Not attended	43,180	42,609	85,789
Not stated	3,946	5,925	7,742
Total	59,683	62,382	119,936