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Public reasoning about criminal justice: The role of victim, offence, and offender characteristics and victim-offender relationships. Public reasoning about criminal justice: Effects of victim age and victim-offender relationship

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Public Reasoning about Criminal Justice: The Role of Victim, Offence, and Offender
Characteristics and Victim-Offender Relationships.

Public Reasoning about Criminal Justice: Effects of Victim Age and Victim-Offender
Relationship.

Donald A Foy

A report submitted in partial fulfilment of the requirements for the award of Bachelor
of Arts Psychology Honours, Faculty of Computing, Health and Science, Edith
Cowan University.

"I declare that this written assignment is my own work and does not include:

(i) material from published sources used without proper acknowledgment;

or

(ii) material copied from the work of other students".

Month OCTOBER Year 2006 .

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Declaration

I certify that this literature review and research project does not incorporate, without acknowledgement, any material previously submitted for a degree or diploma in any institution of higher education and that, to the best of my knowledge and belief, it does not contain any material previously published or written by another person except where due reference is made in the text.

Signature _____

Date 30-10-06

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Public Reasoning about Criminal Justice: The Role of Victim, Offence, and Offender
characteristics and Victim-Offender Relationships.

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Abstract

Public Reasoning about Criminal Justice: The Role of Victim, Offence, and Offender Characteristics and Victim-Offender Relationships.

The formulation and amendment of legislation which forms the basis for the operation and administration of the Australian criminal justice system may be the role given to elected government officials but it is the citizens who elect them who bear ultimate responsibility. The way that members of the public reason about criminal justice issues therefore has the capacity to greatly influence decision making in this area. This paper will review some of the research which has attempted to explain the influence that several variables may have on the way that people reason about criminal justice. These research topics include fear of crime, fear of criminal victimisation, perceptions of crime seriousness, notions of vulnerability to crime due to age, and relationship issues between victims and offenders. This paper will also discuss the substantial increase in Australian prison populations over the past two decades and explore the notion that this increase may be driven by inappropriate or unjustified legislation that has been based upon flawed political interpretation of the public's reasoning about criminal justice. Recommendations for further research in this area are recommended and the potential impact of population aging upon the criminal justice system is discussed.

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Public Reasoning about Criminal Justice: The Role of Victim, Offence, and Offender Characteristics and Victim-Offender Relationships.

In a democratic society such as Australia the way that its citizens reason about criminal justice can have a significant effect not only on the legislation that sets out specific criminal offences but also on the type and severity of the punishment deemed appropriate for those offences (Byrt & Crean, 1972). Although it is the primary function of the legislative body of the government to formulate and amend legislation, the members of this body consists of representatives elected by the majority of the population thus it is the citizens of the electorate who are ultimately responsible for the laws which govern them (Butlin, Barnard & Pincus, 1982; Duncan, 1989).

Due to the importance of the role which citizens hold in a democratic society and the influence that they can exert on government policy it may be prudent to have a greater understanding of how members of the general public reason about criminal justice issues. For instance, the rapidly rising numbers of offenders serving sentences in Australian prisons does not equate with a relatively minor increase in reported crime but could reflect a change, or hardening, in the public's attitude towards offenders (Heggie, 2005).

The ageing population trend, common to many western democratic societies including Australia, has resulted in a substantial increase in the numbers of older people as a component of the total population (Australian Bureau of Statistics, 2004a). With an ever increasing percentage of the Australian electorate belonging to an age group in excess of 60 years this particular section of society may be collectively able to exert considerable political influence upon issues such as criminal law and justice policy (Australian Bureau of Statistics, 2002). The degree of criminal victimisation, whether real or perceived, experienced by members of this age group may have the

capacity to affect this political influence and as such is perhaps worthy of further consideration and study.

Researchers from social, psychological, and legal disciplines have attempted to identify several variables which they have thought might influence the way that people think about crime and criminal justice. These variables have ranged from the emotional aspects inherent in many criminal offences, such as the fear of crime (Clark, 2003; Grabosky, 1995) to calculations concerning the personal risk of victimisation (Lupton, 1999; Pain, 1995). The way in which the mass media provide information to the public about crime and criminal justice has also been widely investigated and commented upon over the past few decades (Doob & Macdonald, 1979; Heath, 1984; Weitzer & Kubrin, 2004; Williams & Dickinson, 1993).

Investigators have explored the relationship between the moral wrongfulness and harmfulness of an offence as a basis for judgements of crime seriousness (O'Connell & Whelan, 1996; Warr, 1989). Public perceptions of crime seriousness have also been investigated in terms of punishment severity and appropriateness (Carlsmith, Darley & Robinson, 2002; Doob, 2000; Durham, 1988; Rind, Jaeger & Strohmetz, 1995). Particular victim characteristics such as vulnerability due to age or mental capacity combined with the abuse of various levels of trust in the relationship between a victim and offender have been systematically manipulated to help determine whether these factors influence participants' views of punishment type and severity (Feather, 1998; McKillop, 2001).

Much of the research and a great deal of the literature that has focused on the way that people reason regarding criminal justice issues has originated in the United States and the United Kingdom. Although there are certainly many cultural and historical differences between both of these countries and Australia there are also a

great many similarities not least of which is the escalating prison population common to all three countries (Heggie, 2005). Many of the variables and influences mentioned above, have been researched and commented on by people from diverse disciplines including, but not limited to, psychology, criminology, journalism, legal jurisprudence, and sociology. Although not all of this literature contains exacting and systematic research as a basis for explaining the way that ordinary members of the public reason about criminal justice, many ideas regarding the cognitive, emotional, and behavioural aspects regarding this issue may be worthy of further psychological investigation.

The purpose of this paper therefore is to present some of the research, and highlight some of the ideas of social commentators who have attempted to explain how people reason about criminal justice. This paper will present a brief summary of a current criminal justice issue concerning the escalating Australian prison population. In order to highlight the impact that public reasoning can have on the operation of the criminal justice system an example of legislative amendment will be provided. A review of relevant research and literature that has attempted to explain how the public may reason about criminal justice will also be included. Discussion regarding the relevance of victim age and the relationship between an offender and a victim will follow.

Criminal Justice Issues

The Australian Criminal Justice System (CJS) includes the Police, who are primarily responsible for ensuring the laws are enforced (Edwards, 2005), the Courts who determine the guilt or innocence of those charged with an offence (Goldsmith, Israel & Daly, 2003), and the Department of Corrections who implement the judgements of the Courts (O'Tolle & Leyland, 2005).

Much of the focus of research and comment concerning criminal justice has centred on the outcome of criminal justice, specifically the degree and type of punishment imposed on those convicted of criminal offences. This paper could not possibly cover all criminal justice issues, this review will limit consideration to outcomes concerning punishment.

Imprisonment in Australia

Traditional outcomes of the criminal justice system such as rehabilitation and deterrence appear to have been replaced in recent years in favour of the prevailing goal of incapacitation (Wilson, 2005). Australia's rate of imprisonment, as with many other countries around the world, is rising at previously unparalleled rates (Carcach & Grant, 1999). The adult population of Australian prisons has increased by almost 50% in the period between 1994 and 2004 (ABS, 2004b). This increase has far exceeded the 15% growth in the Australian adult population over the same period (ABS, 2004a). During a similar period between 1996 and 2004 the number of crimes of the categories typically punished by prison sentences has fluctuated by various degrees. Offences such as theft rose by 4.9%, burglary decreased by 30%, robbery (up 0.8%), homicide reduced by 20%, whereas assault and sexual assault increased by 26% and 14% respectively (AIC, 2005). Overall, however the crime rate has not increased in relation to the escalating number of offenders currently serving sentences in Australian prisons.

The disparity between the dramatic increase in the number of people currently serving prison sentences and the relatively small increase in the overall crime rate suggests that for over two decades there has been a move towards the provision of harsher penalties within criminal legislation and a corresponding increase in the use of prison sentences by the courts. Considering that those responsible for the formulation

of legislation do so as elected representatives of the majority then this majority may also have moved towards the greater use of imprisonment as a criminal justice outcome. The following example of legislative change serves to highlight the impact that perceptions of public opinion can, and has had, on the operation and development of the criminal justice system within Western Australia.

Legislation Regarding Offences against Older People

During the later months of 1999 a spate of violent assaults, robberies, and home invasions committed against several senior citizens who lived in the Perth metropolitan area and were heavily publicised by local media. For a period of several months local newspapers presented graphic images of the bruised and battered victims of these crimes on their front pages. These articles featured frequent commentary depicting elderly people as particularly vulnerable, living in perpetual fear or crime, and on behalf of the public demanded that the government should take some action to curb these crimes (Western Australian Government Hansard, 2001a).

In response to this situation the Western Australian government introduced legislation designed to discourage these types of offences. After several months of debate the *Criminal Law Amendment Act 2001* was passed by parliament. This Act effected changes to several sections of the *Criminal Code Act Compilation Act 1907* and included a minor alteration to section six of the *Sentencing Act 1995*.

In short the maximum penalties for crimes outlined within Section 297 regarding “Grievous bodily harm”, Section 301 “wounding and similar acts”, Section 313 “common assaults”, section 317 “assaults occasioning bodily harm”, section 317a “assaults with intent” were increased by approximately 40% where the victim was 60 years or older. Further changes were made to section 392 “robbery”, and section 393 “assault with intent to rob”, by redefining the circumstance of aggravation relevant to

these offences to include reference to victims who may be 60 years or older. Where this condition applies, the maximum penalty for these offences was also increased by approximately 40% (Colvin, Linden & McKechnie, 2005). Section 6(2)(b) of the *Sentencing Act 1996* relating to the “principles of sentencing” was also amended at this time to indicate that the Courts must take into account the vulnerability of the victim when considering the severity of the offenders punishment.

It is clear that the intent of the Western Australian parliament was to increase the maximum imprisonment term that the Courts could apply to offenders convicted of these crimes. Hansard transcriptions for the year 2001 which recorded parliamentary debate concerning the *Criminal Law Amendment Act 2001* clearly indicate that parliament was aware of the existence of discrepancies between the degree of public outrage regarding crimes against older people and statistics that showed that comparatively few crimes, in relation to other age groups, were actually committed against this age group as the following quotes imply.

The Honourable Giz Watson, member for the North Metropolitan region (Western Australian Government Hansard, 2001a) commented during the second reading of the *Criminal Law Amendment Bill 2001*:

This is a highly political Bill that that will not achieve the aims stated in the second reading speech. The intention is to try to reduce crimes against the elderly, everyone is unanimous in condemning that but this Bill will not achieve that.... Current statistics indicate that crimes against the elderly are already decreasing. (p. 3690)

Peter Foss, the representative for the East Metropolitan region quoting from a survey conducted by the Australian Institute of Criminology (AIC) commented further:

Older people have the lowest rates of crime victimisation when compared to the rest of the population.... There has been a considerable amount of exaggeration of the degree of victimisation of elderly people in our society. Although any amount of victimisation of elderly people in our society is a matter for considerable concern... it is important to keep the amount of victimisation in perspective. (p. 3691)

It is also apparent from these transcriptions that some members of parliament did not believe that by merely introducing legislating designed to increase maximum prison sentences for offences against older people that the courts would necessarily increase the sentences handed out to offenders as Simon O'Brien (Western Australian Government Hansard, 2001b) explained:

Maximum penalties can be raised to whatever level they like, but the court will still apply only what the court deems to be an appropriate penalty having regard to the various forms of mitigation or aggravation. (p. 5591)

Referring to the apparent discrepancy between the maximum penalty for the offences under consideration in this Bill and those actually handed out by the courts Edwards (Western Australian Government Hansard, 2001c) commented:

It is proposed that the maximum sentence will be imposed for serious offences.... If the maximum sentence is 10 years but the average sentence that is imposed is only two years - and parole must also be taken into account - then this Parliament will have no indication and will not be able to give the community confidence that the courts are taking these sorts of offences as seriously as they are being taken by this Parliament. (p. 2005).

During the debate regarding this Bill McGinty (Western Australian Government Hansard, 2001a) read out to parliament part of the head notes written by Chief Justice Hon David Malcolm regarding a case of home burglary (*Fisher v the Queen*):

I do not consider it is open to the Courts now to regard home burglaries as anything but very serious offences. The Courts in this State have recognised for some time now that the offence has become prevalent, and is causing considerable community concern. Quite apart from that, which would in itself be reason for the Courts to continue to firm up sentences in home burglary cases, Parliament has recently singled out the offence for special treatment. Prior to 1996 the maximum penalty for burglary was 14 years' imprisonment. In 1996 amendments were made which increased maximum penalty for domestic burglaries by 28.5 per cent from 14 years to 18 years. It is of course the duty of the Courts to give effect to the policy behind this change: . . . (p. 2006)

Several points arise from this example of legislative change and from the parliamentary debate concerning it. Firstly, those responsible for creating and amending legislation regarding criminal justice appear to be actively focused on increasing the possible imprisonment terms for offences, such as those against older people that they believed were of major concern to the community. Secondly, it would help to explain the increase in the prison population if as was pointed out, that the Courts do pay attention to legislation that increases maximum penalties and acted in accordance with parliaments wishes. Thirdly, this entire process of legislative amendment seems to have been based upon parliament's interpretation of the public's fear of crime and on media reports concerning older victims of a certain age. Finally,

even though those present during the debate were aware that older people had the lowest rates of crime victimisation compared to the rest of the population they believed that the community viewed them as among the most serious offences and as such were deserving of greater punishment (Western Australian Government Hansard, 2001c).

Vulnerability of Older Victims of Crime

Criminal offences committed against people aged 60 years or over constitute a relatively small proportion of the overall number of reported crimes (AIC, 2005). Media reporting of crimes against people of this age group tend to sensationalise them, exaggerate their prevalence, and depict aged victims as especially vulnerable (Harris & Jensen, 1998; Weitzer & Kubrin, 2004). Investigations exploring this matter abuse have suggested that a substantial number of crimes committed against this age group go undetected or are unreported (James, 1994; James & Graycar, 2000). One of the reasons offences by family members against older people may go unreported is thought to concern the family relationship and implicit trust which often exists between the victim and the offender and the influence that this relationship may have on the reluctance, or inability of the victim to pursue legal action (Kinear & Graycar, 1999; Wilber & McNeilly, 2001).

Interpretation of Public Opinion by Government Officials

If solution to the problem of the increasing prison population, as outlined above, is to be discovered it is unlikely to occur through the use of 'public polls' which typically ask television viewers and newspaper readers to answer 'yes' or 'no' to leading questions (Finkel, 1995; Parton, Hansel & Stratton, 1991; Warr, 1989). Often these polls are conducted following a singular, extraordinary, often graphic, or

brutal crime, and consist of little more than interviews involving family, friends, and neighbours of the victim as the following example demonstrates.

A recent disturbing and tragic event which took place in the Western Australian town of Collie in mid-July 2006 began with the strangulation and subsequent burial beneath a house of a 15 year old girl and culminated a week later with police charging two 16 year old girls with her wilful murder (Padenberg, 2006). The Sunday Times newspaper (the only locally produced Sunday newspaper in Western Australia) printed several articles regarding the Collie murder on the following weekend. An article by Spagnolo and Lampathakis (2006) opened on the front page with the bold headline “Call after Collie murder – try them as adults” (p. 1). This article contained the following quote attributed to the opposition police spokesman Rob Johnson;

The community wants to see these two young women tried as adults before the law. The community is sick to death of young people in this age group getting away with committing the most serious crimes and getting very minimum sentences. If they want to act like adults and commit adult crimes they should be tried as adults (p. 1)

Spagnolo and Lampathakis (2006) comment that;

Senior Liberal MPs Colin Barnett and Sue Walker joined Mr Johnson in calling for changes to WA laws so children aged 16 to 18 who committed serious crimes, would be tried before the Supreme and District courts instead of the Children’s Court.(p. 1)

The purpose of including this example in this paper is neither to explore the circumstances of this crime nor to comment on the relative rarity of female killers within this age group (Pemple, 2006) but to highlight the influence that perceptions of public reasoning and opinion can have on legislative change. Although this recent example focuses on the youthfulness of offenders (rather than older victims) the intent behind demands for legislative change appears purposefully designed to increase the potential punishment for the offence.

The above comments and quotes also serve to emphasize some of the main themes and questions raised in this paper. Firstly, as Warr (1982) has questioned, do those who are responsible for the formulation, maintenance, and application of written law correctly interpret public sentiment regarding crime and punishment? Secondly, do the results from more systematic research into public reasoning about criminal justice support these interpretations.

Public Reasoning about Criminal Justice

Definition of Public Reasoning

The term 'public' has been used throughout this paper to refer to the vast majority of people within society who are not specifically and intimately involved with criminal legislation formulation and implementation. 'Public reasoning about criminal justice' therefore refers to the many, and often varied, cognitive and affective approaches which people use to help them form opinions and make judgements regarding criminal justice issues (McKillop & Helmes, 2003). Researchers have previously referred to this type of reasoning as 'commonsense justice' (Finkel, 1995), 'citizens sense of justice' (Darley, 2001), 'public citizens judgements' (Feather, 1998) and this paper will follow a similar convention.

Why is Public Reasoning an Important Issue in Relation to Criminal Justice?

The ways in which members of the general public think about criminal justice are important for at least two reasons. First, as outlined above, the perception of public sentiment by media, government and justice officials has the potential to greatly influence the development and implementation of the law. Secondly, as Finkel, Burke and Chavez (2000) have pointed out, it is often the task of ordinary citizens to act as jurors to find the facts of a criminal case and decide on guilt or innocence. Although jurors are charged with making decisions based on points of law and evidence many elements from each individual's personality, experiences, and belief structure may also influence their reasoning and judgement (Feather, 1996; Finkel, 2001). For these reasons alone it would seem prudent to determine whether the government is accurate in interpreting public opinion by investigating more thoroughly the factors which might be involved in the publics' reasoning.

Fear of Crime

One of the factors which appears to be of significance to criminal justice officials and has been considered to have an impact on the way people reason about crime is the degree to which people believe they are at risk of victimisation. This personal risk of becoming a victim of a criminal offence has commonly been labelled 'fear of crime' (Hale, 1996). As Harris and Jensen (1998) have pointed out many people fall prey to some form of property, violent, or sexual offence at some point in their lives. Even for those people who do not personally experience such crimes most will have received anecdotal information from family or friends who have themselves been victims or known someone else who has been victimised (Sparks & Ogles, 1990). Added to these personal and anecdotal experiences of crime is the vast amount

of crime related information provided by what is commonly referred to as the mass media (Heath & Gilbert, 1996).

Newspaper and television news broadcasts concerning crime have typically focused on the most sensational, violent, gruesome, and unusual types of offences using bold headlines and graphic visuals to gain the attention of their readers and viewers (Bloustien & Israel, 2003). Television drama productions portraying super sleuths, forensic scientists, criminal profilers, and a host of paranormal clairvoyants hunting down and capturing an endless number of deranged serial killers, mass murderers, rapists, and more recently terrorists (Ruthven, 2002), abound during daily prime time viewing hours. Many of Hollywood's blockbuster movies have involved similar elements and most video library shelves are packed with crime related material (Weitzer & Kubrin, 2004)

Much of the research which has investigated this subject has generally reported high positive correlations between those who are exposed to greater crime related media (television, newspaper, movies, and fictional literature) and those who express elevated levels of fear of crime (Hale, 1996). What is also apparent within this research area is the existence of many other factors or confounds which may influence the way people reason about crime. Studies have indicated that older people may have a greater fear of crime than younger people (Lagrange & Ferraro, 1989; Ranzijn, Howells & Wagstaff, 2002). It has been demonstrated that gender may also play a critical role in fear of crime with females consistently portrayed as expressing higher levels of fear than males (Pain, 1995; Roundtree & Lund, 1996).

Studies have indicated that variables within each participant's local environment such as the amount of neighbourhood disorder (McGarrell, Glacomazzi & Thurman, 1997) and racial composition (Eschholtz, Chiricos & Gertz, 2003) may

have an effect on the degree to which crime is feared. It has also been demonstrated by Clark (2003) that those people who have reported being a victim of crime have exhibited a much higher fear of crime than those with no personal experience. Williams and Dickinson (1993) have even reported strong positive correlations between the types of newspapers people read (broadsheets as opposed to tabloids) and the levels of fear of crime they reported.

Fear of crime may be an important aspect of public reasoning about crime but the emotive connotations surrounding 'fear' are not necessarily based on actual factual information (Finkel, 1995). People in Australia over 60 years of age are significantly less likely than any other age group to become a victim of the sorts of offences which the legislation mentioned earlier was enacted to control, yet they most often report the greatest levels of fear and view themselves as being much higher at risk than others (Carcach, Graycar & Muscat, 2001). As Finkel (1995) has pointed out, most people do not generally access statistical information regarding crime frequency and prevalence, nor as Heath (1984) has indicated, do the media readily broadcast these statistics unless using them to support a particular story or event.

Another, perhaps more obvious factor which may directly influence the degree to which the public reason about crime is how 'serious' an offence is perceived to be. Rather than accept that the reaction to serious crime by the various authorities responsible for the administration of justice has been driven by perceptions of public fear of crime it may be more productive to investigate the notion of 'crime seriousness' as it denotes some form of less emotive reasoning. For instance, 'crime seriousness' may be viewed in terms of either how bad or wrong, how damaging or harmful, but and also how prevalent any particular offence is perceived to be (Parton, Hansel & Stratton, 199; Warr, 1982).

Seriousness of Crime

Warr (1989) has suggested that people may rate the seriousness of an offence by the degree of wrongfulness and harmfulness they perceive in it. He has commented that the courts invariably consider the relative seriousness of an offence prior to sentencing. A survey conducted by Warr in 1989 involved 336 participants who were asked to rate how serious they thought that each of a series of 31 particular offences were by rating them from 0 to 10. The offences which they were asked to rate ranged from a person trespassing on a railway yard to robbing a store and killing two employees. Participants were also asked to rate how morally wrong and how harmful they thought these offences were by also rating them from 0 to 10.

Results from this survey (Warr, 1989) indicated that although most participants concurred in their seriousness ratings of the 31 different crimes they appeared to arrive at these judgements for different reasons. Almost 26% of participants based their serious judgements solely on how harmful they thought the offence was while the remainder appeared to alternate between wrongfulness and harmfulness to arrive at their decisions.

Research has also suggested that certain characteristics of an offender, an offence, and of a victim, may combine to have substantial influence on the way people reason regarding criminal justice (Finkel, 1995). Other investigators have predicted that the relative position of trust which an offender occupies within society may have a direct bearing on the public's perception regarding the responsibility of the offender, the perceived seriousness of the crime, and degree of punishment deserved (Carlsmith, Darley & Robinson, 2002; Doob, 2000; Feather, 1996, 1998). It has also been postulated that some of these offender characteristics, combined with aspects of victim vulnerability, may have the potential to influence the degree and

type of punishment deemed appropriate for dealing with the offender (McKillop, 2001).

Victim Vulnerability and the Relationship between Victim and Offender

A series of experiments conducted by McKillop (2001) sought to explore some of the principles that underlie public reasoning about criminal justice. Seven offence scenarios were presented to 34 participants during the initial study in this research program. Each participant was asked to indicate the way they felt about the offence, how serious they thought the offence was, and to indicate an appropriate punishment. The results of this initial exploratory study suggested that offence scenarios which included characteristics such as victim vulnerability and the offenders' position of trust tended to elicit the strongest emotional and morally based responses and led to the highest degree of condemnation and punishment.

Using these principles (victim vulnerability and offender position of trust) McKillop (2001) conducted an experiment involving 348 members of the general public. Participants were required to read one of nine short offence scenarios and then indicate their emotional response, and (following Warr, 1989) moral responses, how harmful they thought the crime was, and to specify an appropriate punishment. These four responses were combined together to indicate the degree of condemnation towards the various offence scenarios. The nine offence scenarios described an identical offence in which the actors (offender and victim) were systematically manipulated. Vulnerability was indicated by reference to the youthfulness of the victim (14 year old boy) or alternatively describing the victim as having a mild intellectual disability. A medical doctor was included as an example of an offender considered to occupy a high degree of trust. Results indicated that although victim

vulnerability characteristics increased the degree of punishment recommended by participants, the offenders' position of trust appeared to have no significant effect.

Initial expectations that participants would have a significantly greater level of condemnation towards an offender occupying a high position of trust were not supported and led to the development of a further study (McKillop, 2001). This study considered the possibility that the 'high trust' offender (the doctor) may have elicited some form of protection from punishment because of his high social status (called a 'status shield' by Shaw & Skolnick, 1996; Skolnick & Shaw, 1994). The next experiment in this series therefore sought to clarify the effect of trust, social status, and of the relationship which might exist between the offender and the victim.

The second experiment by McKillop (2001) was preceded by two surveys, one which sought to identify groups of people who occupy positions of high or low trust, the other to identify people, or groups of people, who occupy positions of high or low social status. These surveys indicated that doctors occupied a high trust/high status position, lawyers appeared representative of a low trust/high status position, while police to some degree occupied a high trust/low status position.

Participants (122 members of the general public) in this second study were asked to read one of six offence scenarios and to provide similar responses as those required in the previous experiment. Scenario 1 and 2 involved a doctor (high trust/high status) as the offender who either had a close professional relationship with the victim or was a complete stranger. Scenario 3 and 4 depicted a lawyer (low trust/high status) as the offender who had either a close professional relationship with the victim or alternatively was a complete stranger. Scenario 5 and 6 portrayed the offender as a policeman (high trust/low status) who either had a close professional relationship with the victim or was a complete stranger (McKillop, 2001).

Results from this second experiment indicated that there was no significant effect on participants' condemnation as a result of the manipulation of offender trust and social status characteristics (McKillop & Helmes, 2003). The absence or inclusion of a close professional relationship between the offender and victim appeared to have little effect on the emotional responses or perceptions of wrongfulness of the participants. McKillop observed that the absence of the close relationship between the offender and the victim had an effect on the assigned penalty with a higher degree of punishment assigned by the participants when the offender and victim were described as being complete strangers. The preliminary survey conducted to help clarify the relationship of high/low trust and high/low status in the McKillop (2001) study revealed that 80% of respondents ($n = 237$) nominated family as more highly trusted than doctors (47.7%).

The much higher trust rating accorded to family, may have the potential to elicit stronger emotional and moralistic responses if this variable was included in future research. If members of the general public rate family relationships as containing the highest degree of trust then a breach of that trust may have a substantial emotional impact upon participants. People who commit offences against other family members, in particular older family members, may also be protected from punishment in a fashion consistent with the status shield (Shaw & Skolnick, 1996) and the finding of McKillop (2001). Considering that many offences against older people are not reported to officials and that a great many of them are thought to be committed by close family members (Kinear & Graycar, 1999) this relationship should be explored further to help explain this phenomena.

Discussion

This paper has documented of the potential influence that citizens belonging to a democratic society can have over government policy (Byrt & Crean, 1972) and, of central interest to this review those responsible for the administration of the criminal justice system. It has also provided statistical information (Australian Bureau of Statistics, 2004b) which strongly suggests that the use of imprisonment has increased out of all proportion to the rise in population and has little correlation with the marginal increase in the crime rate (Carcach & Grant, 1999; Heggie, 2005).

An example of legislative change (e.g. the *Criminal Code Law Amendment Act 2001*) has been included to demonstrate that parliamentary reaction to perceptions of fear of crime in the community has been to increase the maximum prison sentences related to the criminal offences that have appeared to be of most concern to the public. It has also been pointed out that parliament was aware while debating this legislation that relatively few crimes were actually committed against older Australians, compared to younger groups (Australian Bureau of Statistics, 2004a; Carcach, Graycar & Muscat, 2001; Western Australian Government Hansard, 2001a).

If those responsible for formulating and administering justice policy are carrying out their responsibilities on behalf of the general public then it makes a great deal of sense to investigate how the public reason about criminal justice. Doob (1982) has suggested that erroneous, or misunderstood, public reasoning about criminal justice may result in inaccurate interpretation by justice officials and consequently lead to the application of unnecessarily tougher penalties for offenders. A clearer understanding of how people reason about crime and criminal justice issues would help guide and validate the actions of those members of society whose role it is to formulate and administer justice.

Fear of crime and the associated risk of victimisation have been proposed as factors which may influence peoples' attitudes towards criminal justice (Clark, 2003; Grabosky, 1995). The focus by mass media on crime, particularly violent sensational offences, may be providing viewers and readers with unbalanced information regarding both the prevalence and incidence of those particular offences (Doob & Macdonald, 1979; Heath, 1984; Weitzer & Kubrin, 2004; Williams & Dickinson, 1993). The degree of seriousness of crime has been indicated as an important factor in public reasoning (O'Connell & Whelan, 1996). Moral wrongness and harmfulness of a particular offence has been demonstrated to influence judgements of crime seriousness and notions of deserved punishment (Warr, 1989). Research has also indicated that a relationship of trust existing between an offender and a victim may interact with age related vulnerability issues, and can have an influence on the way people reason about criminal justice (McKillop, 2001; Shaw & Skolnick, 1996).

The explanation behind justice issues such as the increasing prison population in Australia may include many of the factors reviewed in this paper that are thought to be involved in the way that the public reason about criminal justice. Imprisonment rates may have grown due to the focus of the government on increasing maximum penalties applicable to certain crimes. It has been demonstrated that this form of legislative action may not necessarily be based on any real increase in crime but may have resulted from political interpretation of the requirements of the public. These interpretations may have been unduly influenced by perceptions of fear of crime victimisation in older citizens. As population ageing continues to increase the percentage of older people in Australian society, this group may potentially have a great deal of political power and influence on justice policy (Australian Bureau of Statistics, 2002).

Fear of crime and criminal victimisation has been demonstrated to be much greater in older Australians than younger groups in the community even though reported crime statistics suggest that criminal victimisation is much lower in the former group (Australian Institute of Criminology, 2005). It is possible that an elevated fear of crime or perceptions of crime seriousness influence the way that older people reason about criminal justice. As the percentage of older people within the population continues to grow, politicians may be forced to pay greater attention to their wishes, values, and demands.

It is important therefore to conduct further research into how people reason about criminal justice issues, particularly the influence that victim age may have on this reasoning. Considering that many crimes against older people are thought to go unreported, and that large numbers of these offences are thought to be committed by family members (Carcach, Graycar, & Muscat, 2001), these issues may be worthy of further examination. If reasoning about criminal justice is being influenced by factors that are not apparent from official statistics, but are nonetheless real considerations for older victims of crime, then further investigation regarding this issue may be warranted.

Finally, the provision of results from further systematic and methodical research in these areas may assist those responsible for administering the criminal justice system to determine whether current justice policies are the result of correct interpretations of public reasoning or not. Information gained from further research may also highlight instances where public reasoning is inconsistent with current justice policy and official crime statistics and may indicate that the public need to be provided with more balanced information on which to base their reasoning regarding criminal justice.

Running Head: PUBLIC REASONING ABOUT CRIMINAL JUSTICE

Public reasoning about criminal justice: Effects of Victim Age and Offender-Victim
Relationship.

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Abstract

Factors such as perceptions of moral wrongfulness, harmfulness, victim vulnerability, and the relationship of professional trust between an offender and a victim have been implicated as important influences in the general public's reasoning regarding the seriousness of a criminal offence and judgements regarding the deserved punishment of an offender. Research by McKillop (2001) suggested that one of the highest levels of trust may exist between close family relatives. Victim vulnerability due to older age (60 or over) is explicitly stated within sections of the *Western Australian Criminal code Act 1913* as a justification for the provision of harsher penalties for offences against this age group. This study attempted to determine if the general public viewed an offence as more serious when the victim was older and when the offender was a close family relative rather. A survey conducted with 210 participants examined the effect of manipulating victim age (40, 60, 80) and victim-offender relationship (the offender was either a stranger or a close family relative) within a short offence scenario regarding a burglary. Participants were asked to indicate their degree of negative emotional reaction, how morally wrong, how harmful they thought the offence was, and to make a recommendation regarding the severity of any punishment deserved by the offender. Contrary to expectations there was no significant effect of victim age on any of the variables. Where the offender was portrayed as a close family relative judgement regarding negative emotional reaction, harmfulness, and punishment severity was significantly less than when the offender was portrayed as a stranger. Implications regarding this study are discussed in the context of prior findings in this area of research. Limitations and recommendations for future research are discussed.

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Public Reasoning about Criminal Justice: The effect of Victim Age and Victim-Offender Relationship.

Introduction

It is generally accepted in a democratic society such as Australia that public opinion has a fundamental influence in the formulation, amendment, and adherence to legislation. A particular component of legislation concerns criminal justice, often a high profile issue in the media (Harris & Jensen, 1998), and as such has the potential to generate public dissatisfaction with legislators, legislation and justice officials (Weitzer & Kubrin, 2004). Reactions by politicians to this type of public dissatisfaction have often resulted in changes to criminal laws and prescribed punishments (Warr, 1982) even when officially recorded offence statistics remain unchanged or low (AIC, 2005). It is therefore appropriate that research is conducted to help determine more accurately the public's reasoning regarding justice issues.

It has been suggested that people rate the seriousness of an offence by the degree of wrongfulness and harmfulness they perceive in it (Warr, 1989). Research has suggested that certain characteristics of an offender, an offence, and of a victim, may combine in some way to have substantial influence on public reasoning regarding criminal justice (Finkel, 1995). Other investigators have proposed that the relative position of trust which an offender occupies within society can have a direct bearing on perceptions regarding the responsibility of the offender, the perceived seriousness of the crime, and the degree of punishment deserved (Doob, 2000; Feather, 1996). In particular it has been postulated that these offender characteristics, combined with certain aspects of victim vulnerability, may have the potential to influence the degree and type of punishment deemed appropriate for dealing with the offender (McKillop, 2001).

An unpublished doctoral thesis (McKillop, 2001) reported findings from a series of surveys and experiments that sought to explore participants' reactions to crime scenarios involving offender position of trust (eg. A doctor), and victim vulnerability (eg. an intellectually disabled man). Participants were asked to rate negative emotional, moral wrongfulness, and harmfulness responses to the offences depicted in these scenarios and to indicate the level of punishment that they felt was appropriate. Although the results of these experiments did not lend support for the premise that negative emotive responses, moral outrage, perceptions of harmfulness, and offender position of trust, would lead participants to recommend greater punishment, they did indicate that harsher penalties were deemed appropriate when the victim appeared to be vulnerable and where the offender and the victim were strangers (McKillop & Helmes, 2003).

A preliminary survey conducted to help clarify the relationship of high/low trust and high/low status in the McKillop (2001) study revealed that 80% of respondents ($n = 237$) nominated family as more highly trusted than doctors (48%). The much higher trust rating (almost 60% higher) accorded to family, may have the potential to elicit stronger emotional, moralistic, and harmfulness responses. If members of the general public hold family members in the highest degree of trust then a breach of that trust may have a substantial emotional impact on them. In a situation where one family member commits an offence against another family member, it could be expected that this would evoke an even stronger reactions.

Vulnerability of Older Victims of Crime

Criminal offences committed against people aged 60 years or over constitute a relatively small proportion of the overall number of reported crimes (Australian Institute of Criminology, 2005). Media reporting of crimes against people of this age

group tend to sensationalise them, exaggerate their prevalence, and depict aged victims as especially vulnerable (Harris & Jensen, 1998; Weitzer & Kubrin, 2004). Investigations exploring issues such as elder abuse have suggested that a substantial number of offences committed against this age group go undetected or are unreported (James, 1994; James & Graycar, 2000). One of the main reasons offences against older people may go unreported is thought to concern the family relationship which often exists between the victim and the offender. Factors such as trust and dependence are thought to influence the apparent reluctance by the victim to pursue legal action (Kinear & Graycar, 1999; Wilber & McNeilly, 2001). Issues regarding crimes against older people may be particularly relevant when viewed within the context of the aging population trend currently being experienced in most western countries including Australia.

The Australian Bureau of Statistics (ABS) has predicted that within two decades half of the Australian population will be over 50 years of age and that a great many of these people will be elderly (70-90 yrs). These predictions suggest that people will live longer, due in part to medical treatment, but will not necessarily be any healthier physically or mentally (Australian Bureau of Statistics, 2004). Although reported offences against people over sixty are relatively low at present (Australian institute of Criminology, 2005) population aging has the potential to create a substantially larger number of potentially vulnerable victims. It may be prudent for those politicians to consider that in several years more than half of the voting population may be close to 60 years of age. This age group could have a significant amount of influence regarding criminal legislation (Australian Bureau of Statistics, 2002).

Perhaps the most substantial recent public reaction to crimes against people in this age group is reflected by amendments made in 2001 to several sections within the Western Australian Criminal Code Act 1913 (2003). These sections concern crimes such as grievous bodily harm (s.297), assault (s.313, s.317, s.317a, s.318), and sexual assault (s.314, s.326, s.328) and add a clause which increases the maximum penalty prescribed for these offences by 40% if the victim is 60 years or older.

The Present Study

The present study was a partial replication of the research conducted by McKillop (2001) that investigated the effects of victim vulnerability and offender position of trust on the public's reasoning about criminal justice. Victim vulnerability in the present study concerns the frailty which may be reasonably expected to exist in older age groups. This type of vulnerability is specifically accounted for within the Western Australian Criminal Code Act 1913 (2003) and regards an offence as substantially more serious when the victim is 60 years or older. The issue of trust in the present study focused on the trust that could normally be expected to exist within family relationships. Part of the focus of the present study was to explore whether participants were more punitive when the offender was a close relative of the victim than when they were strangers.

As this study was based upon research conducted by McKillop (2001) it employed a similar set of variables to measure participant responses to offence scenarios. Measures of public perception included; (1) negative emotional reaction, (2) their degree of moral outrage, (3) perceptions of harm caused by the crime, and (4) severity of punishment recommendations. Specifically this study investigated whether the public considered an offence to be more serious when the victim was elderly, and

whether they considered an offence by one family member against another family member to be more serious than an offence against a stranger.

Method

Research Design

A 3 x 2 between-subjects factorial design was employed in this study. The study examined the effects of two independent variables, (Victim Age x Victim-Offender Relatedness) on negative emotional response, perceived moral wrongfulness, harmfulness of the offence, and severity of punishment recommendations. Factorial combinations of Victim Age (40, 60, and 80) and Victim-Offender Relatedness (close family relative of the victim or a complete stranger) produced six conditions by systematic manipulation of a single offence scenario. As well as the four quantitative measures, qualitative information regarding aspects of the offence scenario which may have influenced responses to punishment severity was collected.

Participants

Participants ($n = 210$) were 96 males and 114 females with ages ranging from 18 to 91 ($M = 44.57$ years). They were randomly assigned to one of the six study conditions. A convenience sample was used for this study. Participants were recruited with the assistance of friends, colleagues, and family members of the researcher. All research assistants were provided with information regarding the purpose of the study and instructions regarding the recruitment of participants (Appendix A). Participation in this study was voluntary and no inducements were offered to the research assistants or to those who completed the questionnaires. Participation in this study was completely anonymous and all participants were free to withdraw at any time.

Materials

An information letter and consent form (Appendix B) was provided to all 210 participants. Six short scenarios depicting an identical offence (Appendix C) were produced. The offence involved a home break-in where the offender stole \$4000 in cash and jewellery from the home of the victim. The victim was home at the time but was unaware that the offender had broken in. Two of these scenarios depicted the victim as a 40 year old, two as a 60 years old, and two as an 80 year old. In each of these three victim age conditions the offender was identified as either a close family relative or a complete stranger creating six possible conditions.

The questionnaire (Appendix D) contained instructions for completion, one of the six offence scenarios and five questions. The first four questions were designed to measure the perceived seriousness of the offence and deserved punishment of the offender in terms of negative emotional reaction to the offence, perceived moral wrongfulness of the offence, harmfulness of the offence, and severity of punishment recommendations (as per McKillop, 2001; Warr, 1989). A 145mm visual analogue scale was provided after each of these four questions and required the participant to rate their response to the offence scenario by placing a cross anywhere on the line. Visual analogue scales were employed in this study to avoid constraining or prompting participant responses (Durham, 1993) to the questions and to allow for the possibility of direct comparison to results obtained in the McKillop (2001) study. A further question required the participant to indicate any aspect of the offence which influenced their opinion on the severity of punishment deserved by the offender. The questionnaire also required participants to indicate both their age and gender.

The research assistants were provided with instructions regarding the purpose of this study and participant recruitment (Appendix A). They were supplied with

stamped, addressed A4 envelopes for the purpose of returning the completed questionnaires that they had collected to the researcher. They were also given sufficient quantities of smaller stamped, addressed envelopes to give to participants who preferred to reply directly to the researcher.

Procedure

Research assistants were recruited from within the researcher's circle of friends, colleagues and family. They were given information regarding the purpose of this study, instructions regarding participant selection, and questionnaire completion (Appendix A). Each of the six research assistants was provided with 35 participant information forms (Appendix B), 35 questionnaires (seven of each of the six offence scenarios) and sufficient envelopes in which to return them. The research assistants recruited participants from within their own circle of friends, colleagues, and family members. The participants recruited were required to be 18 years or older and selected in roughly equal numbers of males to females.

Participants were each randomly assigned one of the six different offence scenarios and asked to read it and then complete the questionnaire. They were informed that responding was purely voluntary and anonymous and all were provided with an information sheet regarding the purpose of this study (Appendix B). They were provided with written instructions on how to complete the questionnaire, one of the six numbered crime scenarios and a questionnaire form (Appendix D). Participants were asked to return the completed questionnaires directly to the research assistant or alternatively to return them within the stamped addressed envelope provided.

The returned questionnaires were coded and assigned a participant number in order of their return and responses to the first four questions were entered into an

SPSS data file. Response ratings were quantified by measuring the point of intersection where the participant had placed a cross on the 145mm scale. Qualitative responses to question five were reviewed and the most common remarks were listed by frequency and offence scenario.

Results

Data screening indicated that the distribution of scores for all four dependent variables in each cell was negatively skewed (i.e. the mean scores for all dependent variables in all six conditions as illustrated in Table 1 were relatively high considering that the possible range of scores was between 0 and 145). The deletion or transformation of the small number of outlying scores did little to alter the shape of the shape of these distributions thus all raw scores were retained for further statistical analysis. The mean scores for the six conditions are presented in table 1.

Table 1.

Mean scores for negative emotional response, moral wrongfulness, harmfulness ratings, and deserved punishment severity recommendations by victim age and relationship of victim and offender.

		Negative Emotional Response		Moral Wrongfulness		Harmfulness Rating		Deserved Punishment	
	Victim Age	M	(SD)	M	(SD)	M	(SD)	M	(SD)
Stranger	40	99.29	(34.69)	120.29	(28.95)	103.00	(32.32)	109.86	(29.04)
	60	100.43	(41.11)	126.71	(22.19)	108.71	(30.49)	113.29	(26.15)
	80	112.71	(24.53)	122.57	(25.93)	107.89	(28.48)	115.29	(25.69)
Related	40	92.86	(33.66)	122.43	(18.04)	87.57	(37.50)	92.57	(32.59)
	60	90.29	(37.59)	120.14	(20.98)	94.29	(34.94)	100.86	(35.49)
	80	92.89	(35.53)	119.57	(24.20)	102.43	(32.59)	103.57	(27.42)
Total		98.08	(35.26)	121.95	(23.48)	100.65	(33.14)	105.90	(30.28)

Univariate tests for homogeneity of variance for each of the dependent measures in each condition were not significant ($p > .01$) indicating that homogeneity of variance had not been violated for any of the four dependant variables. Box's multivariate tests for homogeneity of dispersion were also not significant ($p > .001$).

Multivariate analysis of variance (MANOVA) using SPSS was employed to investigate the effects of victim age and victim-offender relationship on participant's ratings of negative emotional impact, moral wrongfulness, harmfulness, and severity of punishment judgements regarding the offence scenario.

Multivariate effects were first examined using Pillai's Trace. This statistic was chosen for its robustness (Field, 2005). The multivariate tests indicated that the main effect of victim age had no significant influence on the dependant variables $F(8, 404) = .949, p = 0.476$. Participants in this study appeared not to base their judgements on the age of the victim. The main effect of victim-offender relationship however was significant $F(4, 201) = 4.076, p = 0.003$ indicating that whether or not the offender was a close family relative of the victim was an important consideration in participant's responses. There was no significant interaction between victim age and offender-victim relationship $F(8, 404) = .69, p = 0.700$.

Tests of univariate effects after adjusting for probability levels for multivariate tests indicated significant differences in three of the four dependent variables where victim-offender relationship was considered. Negative emotional reaction $F(1, 204) = 6.369, p = 0.012$, harmfulness ratings $F(1, 204) = 6.741, p = 0.010$, and severity of punishment recommendations $F(1, 204) = 11.424, p = 0.001$ were all significantly greater when the offender was portrayed as a complete stranger than as a close family member. There was no univariate effect for victim-offender relationship on perceived moral wrongfulness of the offence.

Qualitative responses regarding any aspects of the offence scenario that may have influenced participant judgements on the severity of punishment deserved by the offender were reviewed and the most frequent answers are listed in Table 2.

Table 2.

Aspects of the offence scenario that influenced judgements on severity of punishment recommendations.

Victim Age	Relationship to offender	Qualitative Responses	Frequency
80	Stranger	Age of the victim	26
		Offence occurred in safe place (security violated)	24
		Risk of violence	15
80	Relative	Age of the victim	25
		Victim was a family relative	24
		No one was hurt	10
60	Stranger	Offence occurred in safe place (security violated)	13
		Age of victim	9
		Risk of violence	8
60	Relative	Victim was a family relative	20
		Age of the victim	15
		No one was hurt	7
40	Stranger	Offence occurred in safe place (security violated)	15
		Risk of violence	15
		Value of stolen items	10
40	Relative	Victim was a family relative	20
		No one was hurt	11
		Value of stolen items	7

Discussion

It is perhaps appropriate prior to commenting on the results of this research to discuss certain issues relevant to the instrument used to collect the data. The use of analogue scales although designed to avoid constraining or pre-empting responses (as opposed to a graduated or labelled Likert scale) has been demonstrated to be problematic. The McKillop (2001) study reported large variances in participant

responses resulting in platykurtic distributions that made inferences regarding consensus extremely difficult to make. This was not the case in the present study.

In the present study the vast majority of participant responses to all four dependent variables in each of the six conditions were made within the top third of the analogue scale resulting in negatively skewed distributions. This may suggest that many people participating in the study viewed the actual offence described in the scenario as particularly serious whether or not they considered victim age or victim-offender relationship in their evaluations. Participant’s responses regarding the moral wrongfulness of the offence (Figure 1) demonstrate that a great deal of consensus existed between participants that the offence was considered to be extremely morally wrong.

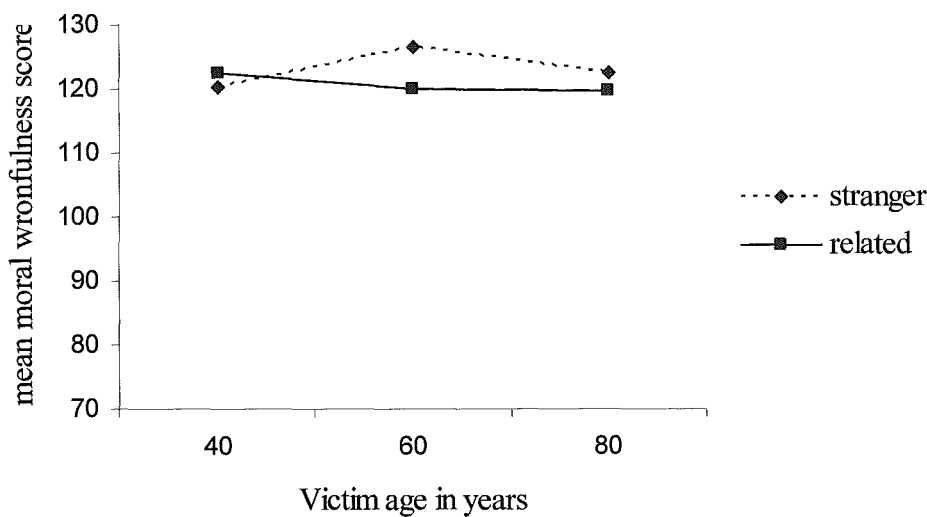


Figure 1.
Mean moral wrongfulness reactions for victim age and victim-offender relationship (vertical axis has been truncated for clarity the possible range was 0-145).

Victim Age

The age of the victim did not appear to have a significant impact on participants' judgements regarding offence seriousness in terms of their negative emotional reaction, moral wrongfulness responses, harmfulness evaluations, and severity of punishment recommendations. An examination of the mean scores presented in Figure 2 indicates that negative emotional reaction scores remained relatively stable across the three age groups and relationship condition with the exception of the 80 year old victim of a stranger. Although not statistically significant the increased negative emotional response regarding this combination was one of the few indications that victim age may have been of some consideration although it is unclear whether the relationship with the offender may have had some influence.

One of the most interesting results from the present study is that they do not directly support the amendments made to the Western Australian Criminal Code Act in 2001 (*Criminal Code Law Amendment Act 2001*, 2001) which explicitly views crimes of the type mentioned in the offence scenario committed against older people (60 or over) as much more serious. It may be possible that the extremely large consensus regarding the moral wrongfulness of the offence has acted to overshadow any consideration of both victim age and victim-offender relationship.

Victim- Offender Relationship

Results from this study have demonstrated that there was however a significant difference in participant judgements regarding the offence scenarios in respect to negative emotional reaction, harmfulness ratings, and severity of deserved punishment judgements.



Figure 2.
Mean negative emotional reactions for victim age and victim-offender relationship
(vertical axis has been truncated for clarity the possible range was 0-145).

Where the offender was portrayed in the offence scenario as a stranger, the negative emotional reaction was higher than when a close family relative was involved. Although negative emotional reactions may have been intended by participants to represent feelings such as contempt or disgust towards the offence other strong negative emotions such as anxiety and fear appear more likely to be involved. The large number of qualitative responses suggesting issues such as ‘not being safe in your own home’ was typical of remarks made by almost all participants. Although these responses were asked in relation to punishment severity recommendations and all six offence scenarios explicitly stated that the victim was unaware of the presence of the offender it is clear that most participants viewed the offence as potentially dangerous.

Fear of crime literature may offer some explanation for these results. Harris and Jensen (1998) have suggested that the fear of victimisation may be a salient

consideration on judgements concerning the perceived seriousness of a crime. It has also been demonstrated that those with personal experience as victims (or even those with anecdotal information) are often more fearful of becoming the victims of crime themselves (Lagrange & Ferraro, 1989; Ranzijn, Howells & Wagstaff, 2002). Almost 65% of respondents indicated that they had been the victim (or someone known to them) of a similar offence to support their severity of punishment judgements.

Fear of the unknown is generally considered to be greater than fear of the known (Howells & Wagstaff, 2002). The reason that offenders who were strangers evoked greater negative emotional responses than offenders who were close family relatives may have been due to the nature of this basic premise. Remarks in relation to risk of violence such as ‘what would have occurred if the victim had come in contact with the offender during the burglary’ were almost exclusively mentioned regarding the three scenarios where the offender was portrayed a complete stranger (Table 2). These types of remarks, although also related to harmfulness judgements, were largely absent where the offender was a close family relative.

Harmfulness ratings by participants in the present study were significantly higher when the offender was portrayed as a complete stranger than as a close family relative (Figure 3).

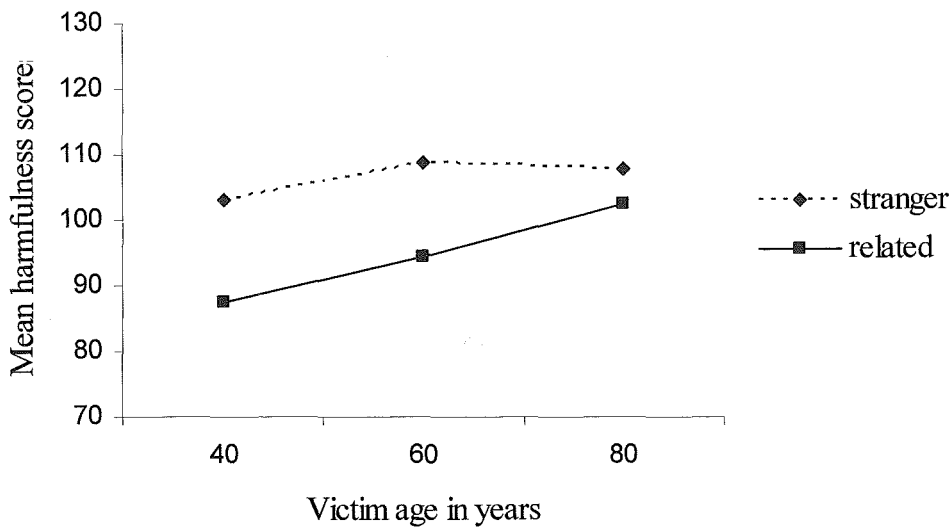


Figure 3.
Mean harmfulness scores for victim age and victim-offender relationship (vertical axis has been truncated for clarity the possible range was 0-145).

Official crime statistics and surveys have indicated that a great deal of offences carried out in domestic residences, particularly those involving physical and sexual assault, are committed by family members or friends (Kinear & Graycar, 1999; Wilber & McNeilly, 2001). This appears contrary to the expectations of most of the participants in this study as they indicated that the offender who was a complete stranger was more to be feared. It is perhaps understandable that the higher levels of interpersonal trust typical in family relationships (Rempel, Holmes & Zanna, 1985) would decrease expectations of the likelihood of harm from an offender who is a close relative than one who is a complete stranger.

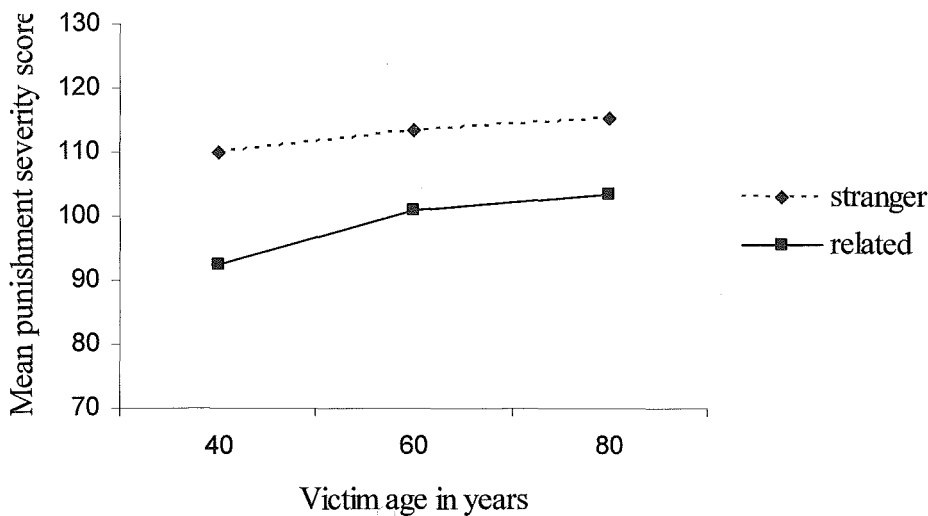


Figure 4.
Mean punishment severity recommendations for victim age and victim-offender relationship (vertical axis has been truncated for clarity the possible range was 0-145).

The severity of punishment recommendations in this study clearly indicated that participants were significantly more punitive towards offenders who were complete strangers than offenders who were close family relatives (Figure 4). This result supports the assertions made by Shaw & Skolnick (1996) that the offender occupying a position of trust (a close family relative in the present study) may have been shielded from harsher punishment because of the higher trust inherent in the relationship. Similar significant results regarding punishment recommendations were observed by McKillop (2001). Although the issue of trust in that study concerned professional relationships such as may exist between doctors and patients, lawyers and clients, and police and victims, the outcome regarding severity of punishment was similar.

One of the main differences between a professional trust relationship and an inter-family relationship may be that in the latter the wish to severely punish the

offender may have an undesired negative impact on the victim. It has been suggested that close family members are less likely to be reported to the authorities by their victims due to the potential adverse changes which may affect the victim (Browne, 1993; Johnson & Ferraro, 2000; Magdol, Moffitt, Caspi & Silva, 1998).

Where a victim perceives themselves to be dependent on a close family member for financial, physical, or emotional support they may believe that it will not be in their best interests to report any offence which may result in this support being curtailed. Action taken by the victim resulting in the offender being imprisoned or fined may result in a loss of income affecting the economic situation of those who are dependent.

Conclusions, Limitations and Implications for Further Research.

In trying to create a distinction between the relative robustness of youth and the vulnerability common to old age this study may have portrayed all three victim age groups (40, 60, 80) as older, to varying degrees. Future research regarding this issue may be less problematic if a strategy is employed which clearly differentiates youthfulness and old age by perhaps portraying one victim as a 25 year old and one as a 70 year old.

The depicted offence appeared to be considered very morally wrong by the vast majority of participants in every experimental condition. Although many participants indicated that it was only money and jewellery that were taken during the robbery and that the victim had this on him when he was arrested they appeared to focus more on the potential danger they perceived in the offence. It is interesting to note that the particular offence contained in each of the six offence scenarios concerned one person (John) breaking into a house and taking \$4000 of cash and jewellery. It was made clear that the victim was unaware of the offence and that the

offender was arrested while still in possession of the stolen cash and jewellery. The information contained in each offence scenario clearly suggests that the victim was not hurt and stood every chance of having the stolen cash and jewellery returned. It may be prudent for future research to identify an offence which is less topical and allows for less extrapolation.

Participants were recruited for this study in an attempt to obtain a sample which approximated the general population in age and gender only. Although this was accomplished several studies have indicated that reasoning about criminal justice issues may be influenced by direct or anecdotal experiences with victimisation (Clark 2003; Sparks & Ogles, 1990; Williams & Dickinson, 1993). Others have demonstrated that living in a neighbourhood experiencing high crime rates may also influence opinions regarding seriousness of offences and punishment recommendations (Eschholtz, Chiricos & Gertz, 2003; McGarrell, Glacomazzi & Thurman, 1997). It may be prudent for further research to account for these types of variables within a participant sample.

Qualitative responses given by participants in response to question 5 which asked them what aspect of the offence influenced their opinion on the severity of punishment deserved by the offender were unexpectedly detailed and lengthy. The reason for this may have been that the questionnaire form provided a great deal of space (15 ruled lines across an A4 page) and participants felt obligated to fill them up.

Although the present study was essentially quantitative in design a more thorough analysis of the qualitative data may have assisted in clarifying some of the results particularly those involving victim-offender relationships. For instance, the following remarks were made by participant 63, a 45 year old female responding to the scenario where the victim was 80 years old and the offender was a close family

relative - "Punishment is for crime and value. Surely the offenders' guilty conscience and the effect on the family is probably a worse punishment than any legal punishment, the hardest kick of all is the one you give yourself". In response to the scenario including the 60 year old victim who was a close family relative of the offender participant 107 a 20 year old male wrote - " John is a close family relative of Mr page and the family can surely come up with a decent enough punishment themselves".

By far the most common qualitative response regarding the four scenarios where the victim was 60 or 80 years old concerned the vulnerability of this age group. Although there appeared to be a slight upward trend in the quantitative data regarding negative emotional response, harmfulness judgements, and severity of punishment recommendation, relative to victim age this was not statistically significant. Future research may benefit from either reducing the space available for qualitative responses or linking these responses more directly to each of the questions in the survey.

Even though there were significant differences in the severity of deserved punishment recommendations regarding the victim-offender relationship overall these judgements were orientated towards the upper end of the scale. Only 30 of the 210 participants placed a cross on the analogue scale at, or below halfway. Most of the participants indicated that a punishment close to the maximum for this offence would have been appropriate.

It is interesting to note that the maximum penalty for offences such as that described in the offence scenario in the present study is 20 years imprisonment. If the punishment severity scores were intended by participants to suggest imprisonment terms the overall mean recommendation would have been close to 15 years. This is

far above the average sentence of 16 months given for this type of offence (Western Australian Government Hansard, 2001c). The offence scenario did not contain any background information regarding the offender other than his relationship with the victim. If this had been a first time offence it is unlikely that the offender would have spent any time in prison at all.

The results of the punishment severity recommendations in the present study demonstrate support for the notion proposed by Warr (1982) that the general public tends to adopt a punitive stance towards crime. This punitive stance has been implicated as a driving factor behind increasing prison populations (Carcach & Grant, 1999; Wilson, 2005) and further research in this area may benefit from investigating more clearly what participations mean by punishment. This may be accomplished by directly asking participants to nominate the type and purpose of any punishment recommendation (i.e. fine, community work, good behaviour bond, restitution, or imprisonment) and to quantify their response in some fashion (i.e. time in prison, amount of fine). Direct comparisons between actual outcomes for offences similar to those used in the scenarios could then be made.

Finally, the results in present study did not indicate that victim age was a consideration in any of the dependent variables including punishment recommendations. Although participant ages were collected on the questionnaires they were not included in the analysis. In hindsight data relating to participant age may have been useful in determining whether there were differences in punishment recommendations as people aged. Research examining this question may help to illuminate the impact of an aging population on the criminal justice system.

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Press.

Appendix A
Research assistant instructions

Dear research assistant, thank you very much for your help.

There are several copies (30) of a survey in the attached envelope. This survey is part of the research component of my honours thesis. The survey contains two A4 pages and includes an information letter for the participant, printed on one side, which they should detach and keep, and a questionnaire, printed on both sides, which needs to be completed by the participant.

The questionnaire includes -

- instructions for the completion of the survey.
- one of six (6) short scenarios depicting a crime.
- four questions which require the participant to place a cross anywhere on the scale below each question.
- a fifth questions which requires them to write a few words about what may have influenced their decisions about the severity of the punishment.
- A place to indicate their age and gender.
- The questionnaire is marked with the scenario number i.e. S1, S2, S3, etc.. on the top left hand corner of each page.

Participants need to be 18 years or older and in roughly even numbers of males and females. No personally identifiable information is required as this is an anonymous survey. The six crime scenarios contained in the questionnaire vary in the age of the victim (40, 60, 80) and also whether they have a relationship with the offender or not. The basic idea is to give one questionnaire, selected randomly, to each participant and if possible to ask these people if they can get another person (or more) to fill one out as well.

If you can collect the completed questionnaires from the participants at the time of completion I will come and collect them from you. If you need more questionnaires I have plenty that I can send you. If you need more stamped self addressed envelopes I can send those or reimburse you for any photocopying, stationary, or postage costs that you may incur.

I will need to have all the completed questionnaires back by the end of July or early August in order to analyse the data. If you need any information regarding this survey please give me a call.

Thank you once again for your help.

Ph	94058567
E-mail	dak@badmama.com.au
Address	11 Jasmine close Edgewater WA 6027

Appendix B
Information letter for participant

Dear participant,

My name is Donald Foy and I am inviting you to participate in a research project which I am conducting as part of the requirements of a BA Honours Psychology degree at Edith Cowan University Joondalup.

This research may help to provide a greater understanding of the general public's views in relation to crime and punishment. In particular it may help to shed light on public sentiment regarding particular criminal acts and indicate the severity of punishment which the public may feel is appropriate. As public sentiment has been shown to have a significant impact on legislation, information gained in this research may be of value to those responsible for the management of our criminal justice system.

Participation in this research will involve reading a short paragraph depicting a crime and then answering five questions. There are **no right or wrong answers** to these questions it is **your personal opinion** that is required. Participation in the research is purely voluntary and you do not have to take part. Your responses will be completely anonymous and you should not write your name or address on the questionnaire or the return envelope. The information you provide will be held in strictest confidence by the researcher. The completion of this questionnaire should take no longer than 15 minutes.

If you decide to participate in this research you will need to read the crime scenario, complete the questionnaire, seal it within the stamped envelope provided, and return it to the address indicated or hand it directly to the researcher. By returning the questionnaire you will have given your consent to participate in this project.

This research has gained ethics approval from the Faculty of Community Services, Education and Social Sciences Ethics Sub Committee. If you have any questions regarding this research, please do not hesitate to contact myself, my supervisor Dr Dianne McKillop, or if you wish to speak to someone independent of the research, the Honours co-ordinator Dr Julie Ann Pooley at the numbers listed below.

Thank you very much for your assistance.

Student: Donald Foy

TEL: 94058567

E-mail: dafoy@student.ecu.edu.au

Supervisor: Dr Dianne McKillop

TEL: 63045736

E-mail: d.mckillop@ecu.edu.au

Honours Co-ordinator: Dr Julie Ann Pooley

TEL: 63045591

E-mail j.pooley@ecu.edu.au

Appendix C

Offence scenarios

S1 John has been charged with burglary after being arrested for breaking into the house of 80 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John and Mr Page were complete strangers. Mr Page was not aware that John had broken in at the time it happened.

S2 John has been charged with burglary after being arrested for breaking into the house of 80 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John is a close family relative of Mr Page. Mr Page was not aware that John had broken in at the time it happened.

S3 John has been charged with burglary after being arrested for breaking into the house of 60 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John and Mr Page were complete strangers. Mr Page was not aware that John had broken in at the time it happened.

S4 John has been charged with burglary after being arrested for breaking into the house of 60 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John is a close family relative of Mr Page. Mr Page was not aware that John had broken in at the time it happened.

S5 John has been charged with burglary after being arrested for breaking into the house of 40 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John and Mr Page were complete strangers. Mr Page was not aware that John had broken in at the time it happened.

S6 John has been charged with burglary after being arrested for breaking into the house of 40 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John is a close family relative of Mr Page. Mr Page was not aware that John had broken in at the time it happened.

Appendix D
Example of questionnaire form

Please read the following scenario carefully and then indicate your response to the first four questions (Q1 to Q4) by placing a cross on the lines provided. Question 5 requires you to indicate any aspect of the scenario which may have influenced your decision about the punishment. There are **no right or wrong answers** to these questions it is ***your opinion*** that is important. When you have answered these questions please indicate your age and gender in the space provided. No other information about you is required. After completion, please place the questionnaire inside the envelope provided and return it to the researcher at the address provided.

Scenario

John has been charged with burglary after being arrested for breaking into the house of 80 year old David Page, who was at home at the time. John had stolen over \$4000 in cash and jewellery and had this on him when he was arrested. John and Mr Page were complete strangers. Mr Page was not aware that John had broken in at the time it happened.

Questions

Q1 Please place a cross anywhere on the scale to indicate the extent of your negative EMOTIONAL reaction to this crime.

*no negative
emotional reaction*

*extremely negative
emotional reaction*

Q2 Please place a cross anywhere on the scale below to indicate how MORALLY WRONG you think this crime was.

*not at all morally
wrong*

*extremely morally
wrong*

Q3 Please place a cross anywhere on the scale below to indicate how HARMFUL you think this crime was.

not at all harmful

extremely harmful

Please turn over and complete the following questions.

Q4 Please indicate your opinion regarding the severity of any punishment deserved by the offender by placing a cross anywhere on the scale below.

no punishment

the maximum punishment
for this offence

Q5 What aspects of the crime influenced your opinion on the severity of punishment deserved by the offender?

Please write your age in years in the space provided and indicate your gender by placing a cross in the appropriate box.

AGE

Male ☐

Female ☐

Thank you very much for your participation in this research.

Appendix E

Raw data from the questionnaire

Participant number	Scenario number	Participant Age	Participant Gender 1=Male 2=Female	Relationship to victim 1= Stranger 2= Relative	Victim Age 1=40 yrs 2=50 yrs 3=80 yrs	Negative emotional response	Moral wrongness	Harmfulness	Severity of punishment opinion
1	1	35	1	1	3	115	130	145	145
2	1	27	2	1	3	120	95	50	115
3	1	57	1	1	3	145	50	120	145
4	1	25	2	1	3	115	140	120	115
5	1	23	2	1	3	90	125	85	90
6	1	29	1	1	3	65	115	65	60
7	1	47	2	1	3	70	140	111	105
8	1	43	1	1	3	120	135	105	125
9	1	58	1	1	3	110	90	40	85
10	1	83	2	1	3	135	135	135	135
11	1	72	1	1	3	135	140	140	140
12	1	53	1	1	3	110	105	95	95
13	1	78	2	1	3	130	110	135	75
14	1	82	2	1	3	120	130	100	120
15	1	70	2	1	3	145	145	145	145
16	1	75	1	1	3	140	140	140	140
17	1	65	1	1	3	145	145	145	145
18	1	22	2	1	3	75	105	105	140
19	1	40	2	1	3	90	140	110	120
20	1	46	1	1	3	115	135	90	130
21	1	31	2	1	3	115	120	85	120
22	1	25	2	1	3	95	125	110	130
23	1	45	1	1	3	145	145	105	115
24	1	35	2	1	3	70	145	135	140
25	1	34	2	1	3	100	105	70	75
26	1	27	2	1	3	70	140	80	65
27	1	30	1	1	3	145	145	95	90
28	1	25	2	1	3	120	140	140	130
29	1	26	2	1	3	105	110	85	140
30	1	54	2	1	3	125	140	135	140
31	1	60	1	1	3	75	75	70	75
32	1	55	2	1	3	130	145	130	120
33	1	73	1	1	3	120	125	125	130
34	1	21	1	1	3	110	45	100	100

35	1	47	1	1	3	130	135	130	95
36	2	65	1	2	3	140	135	125	115
37	2	85	2	2	3	120	130	125	130
38	2	28	1	2	3	110	115	75	65
39	2	29	2	2	3	100	100	70	140
40	2	54	1	2	3	90	95	90	85
41	2	50	2	2	3	30	130	120	125
42	2	51	2	2	3	65	145	145	145
43	2	31	2	2	3	130	145	65	70
44	2	54	1	2	3	30	140	140	140
45	2	40	1	2	3	80	105	110	85
46	2	73	1	2	3	130	130	115	115
47	2	22	1	2	3	60	70	75	70
48	2	18	1	2	3	145	70	10	70
49	2	53	1	2	3	65	125	130	120
50	2	48	1	2	3	70	75	75	95
51	2	24	2	2	3	105	110	90	65
52	2	54	1	2	3	70	145	105	110
53	2	40	2	2	3	70	90	50	95
54	2	50	2	2	3	140	140	140	125
55	2	35	2	2	3	110	110	70	140
56	2	28	2	2	3	105	115	120	115
57	2	23	1	2	3	110	145	90	125
58	2	30	1	2	3	30	115	100	105
59	2	91	2	2	3	110	105	110	95
60	2	21	2	2	3	85	140	140	70
61	2	33	2	2	3	135	140	130	125
62	2	45	2	2	3	85	140	140	120
63	2	45	2	2	3	125	145	100	70
64	2	70	2	2	3	140	145	145	140
65	2	71	2	2	3	130	130	125	110
66	2	48	1	2	3	70	110	50	90
67	2	23	2	2	3	105	145	120	110
68	2	33	2	2	3	35	100	80	70
69	2	35	2	2	3	96	70	75	45
70	2	48	1	2	3	30	135	135	130
71	3	47	1	1	2	70	140	115	100
72	3	23	1	1	2	100	70	30	70
73	3	40	1	1	2	65	65	85	40
74	3	24	1	1	2	110	130	100	130
75	3	35	1	1	2	105	125	110	145
76	3	40	1	1	2	105	140	130	135
77	3	19	1	1	2	120	140	80	85
78	3	33	1	1	2	135	140	140	140
79	3	25	1	1	2	85	125	75	115
80	3	81	1	1	2	125	135	130	130
81	3	48	1	1	2	100	130	85	135
82	3	51	1	1	2	140	145	125	145
83	3	59	1	1	2	35	110	110	100
84	3	77	1	1	2	125	130	130	125
85	3	61	1	1	2	115	115	115	105
86	3	43	1	1	2	45	80	85	85

87	3	74	1	1	2	145	145	145	145
88	3	21	2	1	2	135	145	130	85
89	3	41	2	1	2	140	140	140	140
90	3	28	2	1	2	145	145	145	145
91	3	47	2	1	2	75	135	105	90
92	3	49	2	1	2	125	145	100	135
93	3	20	2	1	2	120	120	70	90
94	3	28	2	1	2	65	140	105	105
95	3	53	2	1	2	35	85	45	75
96	3	28	2	1	2	145	145	75	115
97	3	43	2	1	2	35	110	145	100
98	3	30	2	1	2	140	140	65	105
99	3	52	2	1	2	10	110	115	125
100	3	41	2	1	2	85	115	90	90
101	3	23	2	1	2	145	145	145	105
102	3	71	2	1	2	110	140	130	115
103	3	60	2	1	2	125	120	120	130
104	3	70	2	1	2	145	145	145	140
105	3	69	2	1	2	10	145	145	145
106	4	20	1	2	2	85	90	15	25
107	4	29	1	2	2	100	140	60	105
108	4	80	1	2	2	5	140	140	140
109	4	73	1	2	2	110	110	115	100
110	4	46	1	2	2	130	130	125	105
111	4	32	1	2	2	105	145	75	145
112	4	31	1	2	2	105	115	100	110
113	4	80	1	2	2	80	110	115	140
114	4	33	1	2	2	140	135	140	75
115	4	58	1	2	2	35	105	40	40
116	4	41	1	2	2	15	70	30	40
117	4	29	1	2	2	105	130	65	100
118	4	35	1	2	2	140	140	135	135
119	4	49	1	2	2	50	90	70	75
120	4	43	1	2	2	70	110	110	80
121	4	81	1	2	2	130	130	130	130
122	4	71	1	2	2	50	115	90	85
123	4	47	1	2	2	50	145	50	105
124	4	57	1	2	2	5	145	145	145
125	4	48	2	2	2	105	110	110	75
126	4	54	2	2	2	90	65	105	140
127	4	60	2	2	2	110	115	105	105
128	4	82	2	2	2	140	140	135	130
129	4	19	2	2	2	70	140	75	100
130	4	38	2	2	2	70	95	65	75
131	4	22	2	2	2	75	135	130	140
132	4	45	2	2	2	95	115	85	75
133	4	49	2	2	2	105	110	110	110
134	4	73	2	2	2	130	130	120	130
135	4	42	2	2	2	80	145	35	15
136	4	73	2	2	2	125	125	120	135
137	4	26	2	2	2	120	120	75	110
138	4	32	2	2	2	110	110	65	95

139	4	19	2	2	2	95	110	105	70
140	4	25	2	2	2	130	145	110	145
141	5	74	1	1	1	45	140	145	145
142	5	80	1	1	1	145	145	145	145
143	5	35	1	1	1	100	130	120	115
144	5	27	1	1	1	75	110	100	105
145	5	45	1	1	1	100	115	105	130
146	5	91	1	1	1	130	130	135	125
147	5	73	1	1	1	120	140	50	60
148	5	34	1	1	1	40	90	95	80
149	5	42	1	1	1	35	115	15	70
150	5	19	1	1	1	30	50	100	75
151	5	18	1	1	1	90	85	80	75
152	5	47	1	1	1	115	140	130	130
153	5	22	1	1	1	70	140	70	140
154	5	70	1	1	1	115	105	120	120
155	5	31	1	1	1	135	130	130	140
156	5	52	2	1	1	140	140	140	140
157	5	29	2	1	1	100	100	100	70
158	5	74	2	1	1	120	130	130	110
159	5	48	2	1	1	25	95	90	85
160	5	67	2	1	1	130	135	45	135
161	5	25	2	1	1	135	140	115	140
162	5	45	2	1	1	100	135	115	135
163	5	39	2	1	1	115	135	120	120
164	5	48	2	1	1	110	145	140	140
165	5	29	2	1	1	145	145	145	145
166	5	36	2	1	1	90	145	135	115
167	5	34	2	1	1	95	105	50	80
168	5	21	2	1	1	110	145	100	50
169	5	54	2	1	1	135	140	75	140
170	5	70	2	1	1	75	145	120	105
171	5	71	2	1	1	100	145	120	120
172	5	25	2	1	1	125	130	85	115
173	5	24	2	1	1	50	30	90	95
174	5	29	1	1	1	120	90	80	80
175	5	44	1	1	1	110	70	70	70
176	6	40	1	2	1	145	145	145	145
177	6	40	1	2	1	70	145	70	70
178	6	38	1	2	1	125	130	125	135
179	6	58	1	2	1	35	115	25	25
180	6	31	1	2	1	85	85	90	80
181	6	36	1	2	1	110	145	125	125
182	6	42	1	2	1	60	110	60	40
183	6	21	1	2	1	120	115	60	95
184	6	28	1	2	1	100	125	105	65
185	6	34	1	2	1	110	130	125	125
186	6	23	1	2	1	95	130	135	85
187	6	22	1	2	1	85	105	45	70
188	6	27	2	2	1	110	110	70	70
189	6	29	2	2	1	110	110	60	90
190	6	32	2	2	1	125	130	125	125

191	6	48	2	2	1	95	75	55	70
192	6	36	2	2	1	95	120	45	110
193	6	61	2	2	1	135	140	135	135
194	6	75	2	2	1	130	135	135	140
195	6	82	2	2	1	125	125	125	115
196	6	70	2	2	1	90	125	125	115
197	6	41	2	2	1	95	145	65	85
198	6	41	2	2	1	10	135	130	50
199	6	35	2	2	1	95	125	70	145
200	6	69	2	2	1	120	140	130	50
201	6	71	2	2	1	125	145	105	85
202	6	36	2	2	1	100	120	50	50
203	6	33	2	2	1	130	130	130	70
204	6	47	2	2	1	80	120	75	70
205	6	26	2	2	1	70	130	30	85
206	6	31	2	2	1	90	100	45	60
207	6	48	2	2	1	20	105	75	105
208	6	33	2	2	1	65	145	90	110
209	6	23	2	2	1	75	105	35	125
210	6	19	2	2	1	20	90	50	120