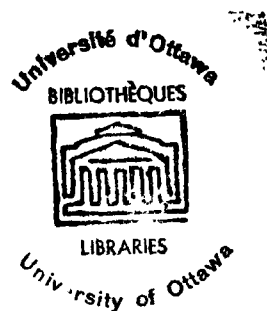


PUNISHMENT: A test of inmate perceptions
toward legal sanctions.

Tony J. Juliani

Submitted to the Department of Criminology,
University of Ottawa, in partial fulfillment
of the requirements for the degree of
Master of Arts.

Ottawa, Ontario, 1976



UMI Number: EC55209

INFORMATION TO USERS

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleed-through, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

UMI[®]

UMI Microform EC55209
Copyright 2011 by ProQuest LLC
All rights reserved. This microform edition is protected against
unauthorized copying under Title 17, United States Code.

ProQuest LLC
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106-1346

ACKNOWLEDGEMENTS

Sincere gratitude is expressed to my supervisor Dr. C.H.S. Jayewardene, Chairman, Department of Criminology, University of Ottawa, for his dedicated guidance throughout the preparation of this thesis.

Greatly appreciated was the assistance and encouragement provided by Mr. J. Braithwaite, Deputy Commissioner of Inmate Programs, (C.P.S.) Ministry of the Solicitor General of Canada, Mr. A. Trono, Regional Director, (C.P.S.) Kingston Region, Ministry of the Solicitor General of Canada, and Mr. E. Millar, Director of the C.P.S. Staff College at Kingston, Ontario.

To the administration, staff and the then inmates of Collins Bay Penitentiary, Joyceville Penitentiary, Kingston Reception Centre and the Kingston Prison for Women, the writer extends special thanks.

The writer also wishes to thank Mr. A. Singh for his analytical assistance and R. Di Franco for her patient typing of the manuscript.

TABLE OF CONTENTS

Introduction	1
Tables	iv
Figures	v
CHAPTER I. 1. Punishment Defined	2
2. Variations in Punitive Sanctions	4
a) Social Degradation	5
b) Financial Loss	7
c) Physical Torture	8
d) Banishment	12
e) Outlawry	12
f) Imprisonment	14
g) Capital Punishment	15
3. Rationale for Punishment	17
a) Deterrence	17
b) Reformation	22
c) Retribution/Vengeance	24
d) Trends in Punitive Expression	26
CHAPTER II. Methodology	42
CHAPTER III. Results and Analysis	60
a) Inmates and Penal Sanctions	73
b) Crimes of Violence Against the Person	75
c) Crimes Against Property	80
d) Victimless Crimes	86
e) Other Crimes	89
CHAPTER IV. Summary	105

CHAPTER V. Bibliography	108
CHAPTER VI. Appendix (Schedule)	117

LIST OF TABLES

<u>TABLE</u>		<u>PAGE</u>
1.	Selected Demographic Characteristics of Sample Population.	61
2.	Sex by Type of Crime Committed.	67
3.	Comparison of Offences Committed by Sample Inmates and by Total Canadian Federal Inmates (1973/74).	68
4.	Sex and Recidivism Rate.	72
5.	Percentage Distribution of Penalties Selected for "Crimes of Violence Against the Person".	76
6.	Comparison of Inmate Sanctions and Criminal Code Sanctions.	79
7.	Comparison of Penalties Selected by Inmates and Court Dispositions.	81
8.	Percentage Distribution of Penalties Selected for "Crimes Against Property".	83
9.	Percentage Distribution of Penalties Selected for "Victimless Crimes".	87
10.	Percentage Distribution of Penalties Selected for "Other Crimes".	90
11.	Pearson's Product Moment Correlation Coefficient between the "Most frequent penalties" and the computed mean of the "Maximum and Minimum penalties" for Selected Offences.	98
12.	Computed Mean of "Experimental" and "Control" groups.	100
13.	Sentence served by Respondents.	69

LIST OF FIGURES

<u>FIGURE</u>	<u>PAGE</u>
1. Sample Population Employment Status.	62
2. Sample Population Educational Achievement.	63
3. Sample Population Sentence Received.	65
4. Sample Population and Crime Committed.	66

"The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country."

Winston Churchill (1910)

INTRODUCTION

The concept of inflicting suffering on a person and the task of establishing equitable sanctions for the offender has revolved around the traditional rationales of deterrence, reformation and retribution with token consideration having been afforded those persons whose life experience may represent the formation of an informed opinion beneficial to the effective structuring of legal sanctions.

From the perspective of the incarcerated offender, the study examines inmate attitudes toward penal sanctions and questions the assumption to objectively derive levels of punishment.

CHAPTER IPUNISHMENT DEFINED

Punishment has intrigued man for centuries giving rise to voluminous interpretations of this captivating theme. The copious writings, examining many aspects of the subject, are matched only by the various definitions given to punishment. In Leviathan, Thomas Hobbes defines punishment as:

"an evil inflicted by publique Authority on him that hath done, or omitted that which is judged by the same Authority to be a transgression of the law; to the end that the will of men may the better be disposed to obedience." (21, p. 164).

An elaboration on the interpretation given by Hobbes, is provided by J. Rawls:

"a person is said to suffer punishment whenever he is legally deprived of some of the normal rights of a citizen on the ground that he has violated a rule of law, the violation having been established by trial according to the due process of law, provided that the deprivation is carried out by the recognized legal authorities of the State that the rule of law clearly specifies both the offense and the attached penalty, that the courts construe statutes strictly, and that the statute was on the books prior to the offense." (42, p. 5).

In reference to the legal rules alluded to by Rawls, Kurt Baier writes:

"It follows from the nature of this whole game consisting of rule making, penalization, finding guilty of a breach of a rule, pronouncing sentence and finally administering punishment, that the last act cannot be performed unless things have gone according to the rules until then." (5, p. 26).

This flow of activities, culminating with the offender being the recipient of expressed authorized sanctions, has as a prime objective "to announce to society that these actions are not to be done and to secure that fewer of them are done." (18, p. 163). Having informed society that certain actions are to be prohibited by law and having affixed legal sanctions to such prohibitions to be imposed on the guilty, punishment becomes an infliction of suffering on the guilty. (40, p. 87).

VARIATIONS IN PUNITIVE SANCTIONS

Although the precise origin of criminal punishment appears difficult to ascertain, at the time of the Great Flood in B.C. 2347 sanctions were established on the law of blood for blood. (56, p. 19). In the fifth century before Christ, Servius Tullius the sixth king of Rome, with the aid of a commission of ten men known as 'decemvirs' drew up rules on brass tables which became known as the law of the Twelve Tables whose phraseology was such that most people could understand it. "If he summons to law, if he does not go, he shall call up witnesses. Then he shall seize him. If he evades arrest or resists, he shall lay hands on him." (56, p. 25).

In some non-literate societies, the administration of the punitive sanctions tended to be left in the hands of the aggrieved person (47, p. 299), for there was no such thing as the punishment of a crime by the society (41, p. 52), and the punishment of children in these primitive societies rarely occurred:

"Travellers everywhere have remarked upon the extreme indulgence toward children. This is very marked among the Eskimo, though

perhaps not more so than among the Fuegians of South America. Wherever we have data, parents almost never punished or even reprove, but such pressure as may be needed is exercised by certain relatives. In the United States this is sometimes the clan or gens uncle of the offender according to sex and inheritance." (58, p. 190).

With the rise of kingship and the accompanying authority, disposition of offenders became a public concern without consideration of the punitive reaction as having some value in itself. (47, p. 300). It was only sometime later that the view of purposive infliction of pain on the offender as having some value became popular, in the meantime, wrongdoers were subjected to various and ingenious methods of suffering revolving around "four principal methods of implementing the punitive policy " (47, p. 303).

SOCIAL DEGRADATION

One of the first methods employed in non-literate societies was that of socially degrading the offender, believing that the loss of the esteem of others was the ultimate punishment. (41, p. 52).

The idea that public humiliation was an important element in punishment had been recognized by the later introduction of the pillory, the stocks, the branding iron, the ducking-stool, and the enforced wearing of a red letter 'D' for those convicted of drunkenness. (10, p. 380). One captain Kimble was placed in the stocks for his lewd behaviour when he kissed his wife in public, after returning from a sea voyage which lasted three years, it was Sunday. (10, p. 380).

During the feudal period, persons convicted of felonies were denied the right to inherit or transmit property, 'civil death' (47, p. 309). This type of humiliation was accompanied by a further spiritual degradation introduced by the church after the death of Christ and known as Penance:

"Emperor Henry IV of Germany who had been excommunicated by the pope, went to Rome in an endeavour to have his sentence removed. He was made to be on the snow, clad only in the traditional penitent's white dress, as he waited the pope's decision. For two days he lay there, fasting and frozen, an object of fun for the onlookers, until on the third day, the pope pardoned him." (43, p. 10-11).

FINANCIAL LOSS

The system of penitents was seen as something less than financially beneficial for the State, and as such the attempt to extract revenue from the administration of justice played a major role in establishing the public authority as a vital part of public law.(43, p. 34). In 1255, Henry III of England ordered his justices to recoup the expenses incurred during an expedition to Scotland by imposing money penalties at the forthcoming assizes in the north.(38, p. 9). In a more formal manner, Ethelbert I of Kent wrote what are probably amongst the earliest documents written in the English language, in which he provided fines for various crimes: the loss of a thumb twenty shillings, a disabled shoulder thirty shillings, loss of an ear twelve shillings, tooth six shillings, a man's thigh twelve shillings and to pierce his penis six shillings.(4, p. 4-17). As with penitents, the fines imposed varied in accordance with the social status of the persons involved. If a man lay with a maiden belonging to the King, his fine was fifty shillings, whereas, if the woman was a slave, the fine was halved.(4, p. 4-17).

If a freeman raped the slave of a commoner, the penalty was a fine not to exceed five shillings, whereas, if a slave raped the same girl, he was castrated.(4.p.75). This class differentiation accentuated by the inability of the lower-class offenders to pay fines in currency, was one of the principal factors in the substitution of systems of corporal punishment in their case.(43, p. 10). Inevitably, the poorer the masses became, the harder the punishments until physical suffering became not merely supplementary but the regular form of punishment taking the place of compensation for a growing number of offences by the middle of the tenth century. (20, p. 3-50).

PHYSICAL TORTURE

Crucifixion, an ancient form of punishment was used by Jews, calling it 'fastening to a tree', and was also implemented by the Carthaginians, Phoenicians and the early Assyrians.(56, p. 20). In the years before Christ, the Jews, Persians and other nations favoured live burials particularly for women. This method being administered to Opimia in B.C. 481, Urbinia in B.C. 470, Misurtiain in B.C. 337, Sextilia in B. C. 273, and to Ilia the mother of the legendary founders of Rome, Romulus and Remus.(56, p. 21).

Some 450 years before Christ, the early Britons had no written laws but a popular method of sanctioning malefactors was by drowning in quagmires, with other forms of punishment appearing in Britain, as St. Albon was burnt at the stake for alleged heresy in A.D. 304 and thereby becoming the first person in England to suffer in that manner. (56, p.27).

In the absence of incontrovertible proof, guilt was established by the ordeal, a method not formally abolished in England until 1219 for the Church found it very beneficial in gaining influence over a highly superstitious people. (20, p. 6). The trial by ordeal, at first took place inside a church, but as time elapsed, the spectators all of whom must be fasting and have abstained from their wives during the night, divided themselves into two rows on either side of the street. (38, p. 204). If the ordeal was by fire, the accused had to grip a red-hot iron bar while he walked nine paces. His hand was then bandaged and if three days later his skin was not scarred, he was pronounced innocent. (56, p. 34). Ordeal by cold water involved casting the accused person into a pond. The theory being that the water having been previously blessed by a priest, would reject an impure person, thus the guilty would float and

the innocent sink. All persons were tied to a rope in case they had to be pulled out. (56, p. 33). Clergymen underwent the ordeal of 'Corsnaed' in which they swallowed bread containing feathers, if they choked they were guilty. (7, p. 48).

A man accused of a crime might also establish his innocence by challenging his accuser to a duel fought with swords and lances (trials by battle) with priests, women, the old and the infirm permitted to appoint substitutes to fight on their behalf. (7. p. 48). This privilege, having been extended to the clergy, became grossly abused toward the end of the 15th century, for all the clergy had to do in order to exonerate themselves was to recite the first verse of the fifty-first psalm. (56, p. 55).

Authentic accounts of punishments inflicted under European law, are not without interest for comparison purposes. The following is a translation by E. C. Buultjens, of an eye witness account of the death of Petrus Vuyst, former governor of the Dutch colony of Ceylon. His crime had been the murder of people under the pretext of justice and other excesses:

"....there was erected at a short distance away, the scaffold, or a sort of a gallowsthe paraphenalia on the scaffold were an arm chair, a butcher's board, a bucket for the entrails, a large knife, and an executioner's hatchetit was the 3rd July, 1732..... the executioner....with the knife which he had in his hand, in three or four blows, which fell one after the other he cut off the neck, and after a moment pause, he seized the head and broke the neck bone in pieces. At once the dead body, which was left on the board and cut up by the executioner who tore out its entrails and threw them down into the bucket... Meanwhile, the second executioner had already taken up the hatchet and chopped the body into four quarters, which as quickly were given over one after the other to the company's slave.....they at once threw the pieces into the fire at the same moment, the arm chair and the board ...were broken to pieces and together with the other paraphenalia and his clothes, were cast into the fire..... his ashes were put in a wooden chest and together with the stone structure iron rooster, and all what was employed to that end....were placed in a flat bottomed boat and being towed out into the sea, it was sunk to the earth with everything that was in it." (37, p. 561).

Whereas the French also practiced quartering as an acceptable punishment for persons having committed attacks on the king's person (56, p. 93-94), legalized torture in the American colonies was limited to the

'peine forte et dure.' (3, p. 87-88).

BANISHMENT

As the sixteenth century gave way to the seventeenth, a notable change in penal methods was the introduction of transportation, through which the possibility of exploiting the labour of prisoners by penal servitude became the precursor of an institution which lasted into the present. (43, p. 24). In April 1770, Captain James Cook had landed in Australia at a place near Botany Bay, and coupled with the independence of the American Colonies in 1786, the policy of transportation to Australia was adopted, transporting a yearly number of 474 between 1787 and 1816 and about 3,000 between 1816 and 1838. (47, p. 310). Other countries utilizing this method of removing undesirables were; Portugal in the sixteenth century sending criminals to Brazil and later to Angola, Italy transporting convicts to the islands along the coast since 1865, Russia using Siberia as a penal colony since 1865, and Spain and France also implementing this method. (47, p. 310-311). Most will recall France's famous citizen to be banished, Napoleon Bonaparte who was exiled to the island of Saint Helena on October 16, 1815. (59, p. 13).

OUTLAWRY

A further method of expelling the offender from society was by declaring him an outlaw, rendering him no protection under the law. The phrase used to declare the

accused an outlaw was 'Caput gerat lupinum' (let him be treated as the head of the wolf). (56, p. 41-42). In 1221, the justices in eyre in visiting Gloucester to try 330 acts of homicide declared one mutilation, fourteen hangings and over one hundred orders for outlawry. (56, p. 41). The authorities found this method very profitable, in that when an outlaw was declared, his property reverted back to the State. Thus, in 1256 Northumberland justices tried 77 suspected murderers; 72 were outlawed, in 1279 they heard 68 cases of murder and 64 were declared outlaws. (25, p.155-156). If the outlaw at some point wished to be re-instated as a lawful citizen, he was subjected to a second trial which if successful declared him a 'new person', allowing for recovery of his land but not his chattels (56, p. 43). A modern application of this method occurred in April 1970 when a superior court judge in Fayetteville, North Carolina, made an order outlawing three prisoners who had escaped from the Cumberland county jail. (56, p. 152).

With the passage of time, these outlaws formed themselves into gangs of brigands three and four hundred strong. (20, p. 10). Led by powerful barons, they frequently gained control of towns and areas of the countryside seizing landed estates, and intimidating jurors and witnesses. (25, p. 151). When Edward I of England was on a campaign fighting the Scottish Rebels, a gang broke into the Royal Treasury and escaped with a treasure worth one hundred thousand pounds, more than twice as much as the Kingdom's entire revenue had been thirty years before. (53, p. 198-202).

During the history of penal administration, several epochs can be distinguished outlining different systems of punishment. Penance and fines were preferred during the early Middle Ages, gradually replaced by a harsh system of corporal punishment in the later Middle Ages, which in turn gave rise to a system of imprisonment (43, p. 8). In non-literate societies, imprisonment was rarely used, and hardly ever occurred in early Greece, and not employed in the Roman Republic, although used for minor offences in the Empire, (47, p. 311).

IMPRISONMENT

In 1103, there appeared in England what might have been the first true English prison as thieves were incarcerated at Baulk House in the High Street in Winchester. (54, p. 34). The first prisoner to die in the Tower of London was Rannulf Flambard in 1128, and to accommodate the famous William Martel, a special prison called the 'Cloere Brien' was built in 1140 by Brian Fitzcourt. (56, p. 35). By 1154, Henry II had come to the throne and promptly ordered the construction of prisons in every county where none existed. (56, p. 36). In areas where prisons were not yet available, another man was hired and handcuffed to the offender until a prison could be found. (56, p. 53).

By the sixteenth century, the house of corrections appeared in England when on the petition of Bishop Riley of London for help in dealing with the numerous vagabonds,

the king gave his place at Bridewell to be used in housing such people. (47, p. 313). Eventually, 300 of these institutions were in operation, however, with time the bridewells were absorbed into the general prison system, deteriorated and finally disappeared giving way to a viciously repressive treatment of offenders. (56, p. 61-62).

CAPITAL PUNISHMENT

Until the fifteenth century, the death penalty was used intermittently, but it soon became the most common measure of dealing with offenders as 72,000 thieves were hanged during the reign of Henry VIII, and under Elizabeth I, vagabonds were strung up in 'rows of three and four hundred at a time.' (43, p. 19). Henry VIII's hard line and reputation as a powerful ruler, not only made him the first and only English king to permit Sunday executions and boiling to death as a legal penalty, but his outlook contributed to the consistent application of the penalty of death for high and petty treason, piracy, murder, arson, burglary, house-breaking, putting in fear, highway robbery, horse stealing and all robberies. (56, p. 79).

The Nurnberg executioner, Franz Schmit, executed 361 people during his forty-four years in office between 1573-1617. (43, p. 19). Turkey, Ireland and Britain favoured the hangman's rope, Spain and Greece preferred garotting and the firing squad respectively, while in the western world, New York State became the first to adopt the electric chair as a modern method of execution. "The culprit is fastened by straps to a firmly built chair, his head is shaved and upon it is strapped one of the electrodes in a cap fitted with a sponge soaked in salt water so as to make, the contact close in order to prevent burning. The other electrode is fastened to the ankle. As the switch is thrown, there is a sputtering drone, and the body leaps as if to break the strong leather straps that hold it. Sometimes a thin wisp of smoke pushes itself out from under the helmet that holds the head electrode, followed by a faint odour of burning flesh. The hands turn red and the cords of the neck stand out like steel bonds." (52, p. 9),

RATIONALE FOR PUNISHMENTDETERRENCE

In 1764, a young Italian, Cesare Beccaria wrote his anonymous Essay on Crime and Punishment stating that punishment is a technique of social control justified when it prevents more mischief than it produces. He believed that man acting in a rational manner would consider the pleasure pain principle and if the risk of punishment was sufficiently high, the rational person would choose to abide by the law. Since the time of Beccaria, it has been generally accepted that certainty of detection and punishment is more effective in deterring crime than the actual severity. Nevertheless, when an attempt is made to check any apparent rise in the crime rate, increased penalties are the result. (22, p. 116).

The introduction of new methods of punishment in recent times, has often been accompanied by the argument that the crime rate can be positively affected by intensifying punishment. (43, p. 193). In France, the 1932 statistics indicate that a more lenient penal policy had no appreciable alteration on the crime rate which remained stationary; in Germany, of the two attempts to reduce the steady increase

in the number of frauds, one at the end of the nineteenth century and one between 1920 and 1924, in neither period was the increased severity of punishments effective in curbing the problem; and in England, France and Germany, where there was no general policy of penal leniency, the opposite was the trend, (43, p. 197-200). In view of his Italian experience, Ferri concluded that the policy of punishment and its variations have no effective influence on the rate of crime. (43, p. 204).

Jansen (1969) postulated that as adolescent's perception of certainty of punishment increased his delinquency decreased. His findings were found to hold true both for individuals with strong and weak social ties. (23, p. 189-201). Similar findings were confirmed by Teevan (1969) in which his data suggested a negative relationship between certainty of punishment and criminality. (50, p. 153-164). In a study of parking violations, Chambliss (1966) found that violations decreased dramatically as certainty of punishment increased. In at least this limited area, an increase in the severity of punishment does act as a deterrent for further violation. (9, p. 310-317).

There was a time when members of the House of Lords in England expressed concern over the abolition of the death penalty for shoplifting of items of a value exceeding five shillings, for this would seriously endanger property and the administration of justice. (26, p. 30). The belief herein would suggest that people fear death more than anything else, and thus it should be an effective deterrent to crime. Some people may not share this belief, as the following factual conversation between a warden and a person to be hanged may illustrate.

"Before Morris Wasser's execution, when I told him that the Governor had refused him a last minute reprieve, he said bitterly:"

"All right Warden. It doesn't make much difference what I say now about this here system of burning a guy, but I want to set you straight on something. This electricution business is the bunk. It don't do no good, I tell you and I know, because I never thought of the chair when I plugged that old guy. I'd probably do it again if he had me on the wrong end of a rod."

"You mean, that you don't feel you've done wrong in taking another man's life?"

"No, Warden, it ain't that... I mean that you just don't think of the hot seat when you plug a guy. Somethin' inside you just makes kill 'cause you know if you don't shut him up it's curtains for you."

"I see. Then you never thought of what would happen to you at the time."

"Hell no! And lots of other guys in here Harry and Brick and Luke, all says the same thing. I tell you the hot seat will never stop a guy from pullin' a trigger."

"That was Wasser's theory, and I've heard it echoed many times since." (27, p. 178-179).

In 1943 Allen Baldwin killed guard Robert Canning in an attempt to escape from the fifth floor of Toronto's Don Jail. He was convicted of murder and sentenced to death. On appeal his sentence was reduced to manslaughter. Asked to comment on his offence, Mr. Baldwin replied; "It's no deterrent, I knew I was facing the rope every time I took a gun and went to rob a bank. If I used that gun and killed someone I would hang but it never stopped me." (36, p. 12).

Are these isolated attempts at sensationalism? Present recidivism rates tend to suggest that this is not the case, for threats of future punishment especially if apprehension is uncertain, do not have the same motivating power as immediate gratification. Moreover, when the risks of detection are considered small it appears possible that the severity of the penalty tends to lose its significance. (22, p. 117). In reference to the uncertain aspect of apprehension, Dr. Robert Borckenstein of Indiana University and developer of the Breathalyzer, used impaired drivers as an example. He contends that in a typical community of one million people, there are approximately 2,000 violations for every arrest. This means that in this size of community there will be 2,000 arrests while 4,000,000 violations go undetected. (1, p. 3).

Although the evidence on deterrence appears to be contradictory, Johannes Andenaes believes that if a man commits a crime, one can only conclude in the failure of general deterrence in his case. It cannot be inferred that general deterrence has been ineffectual in those people not having committed crimes. (2, p. 949).

REFORMATION

A second rationalization in dealing with the offender is one in which the treatment man devotes himself to making law-abiding citizens out of offenders. The ultimate aim is to resocialize the offender, to re-adjust him to society, to rehabilitate him, to change him deep inside. (46, p. 128-158). When the term 'rehabilitation' is used, a basic assumption is indiscriminately made. It is assumed that the individual was at some point 'habilitated'. At some time in his life, he acted according to societal norms and values. It may very well be that the habilitation process never actually took place within the individual and it comes to light only when deviant behaviour is exhibited. He is then sent to prison, in most cases, to re-acquire something he likely never had.

For some offenders, the threat of punishment or imprisonment is nothing more than an occupational hazard. While some people live in a state of perpetual anxiety and concern for the future, others focus on the present. Such are the people who are willing to risk eternal pain as the price for satisfying wordly desires. The individual who is resigned to live such a life, cannot be expected to simply relinquish those activities to which he is committed, due to their illegal nature. The dedicated criminal may be so

strongly involved in his profession, that visualization of viable alternatives becomes a difficult task. Even if these individuals are apprehended, the modern methods of psychiatric treatment and rehabilitation utilized for many other offenders, exist as ineffective methods for those members of society having consciously chosen to disregard established norms.

Others profess that by the time a person reaches prison, he has exhausted all available resources provided by law, having been the recipient of every possible doubt in regards to his guilt. Through the strict rules of evidence, probation, suspended sentence, absolute and conditional discharge, fines and other amenities, he has been afforded every possible opportunity of avoiding incarceration. In many cases, when an individual does receive a prison term, it is out of a sheer lack of alternatives for the sentencing judge. The persistent involvement in criminal activities must therefore be taken as an indication of his willingness not to reform. Even if reformation is possible, can it really be expected that an individual who has neglected repeated opportunities at self modification over a period of time while in the community, be expected to accomplish the process in the confines of an unnatural environment, prison? (31, p. 185).

RETRIBUTION/VENGEANCE

Karl Menninger contends that society needs criminals, "to identify ourselves with, to envy secretly and to punish stoutly. They do for us the forbidden, illegal things we wish to do and, like scapegoats of old, they bear the duedens of our displaced guilt and punishment." (31, p. 179). A similar view is held by Dr. William A. White, dean of American psychiatrists. He believes that by punishing the criminal, the ordinary citizen transfers his tendency to sinfulness deluding himself into a feeling of righteous indignation. (16, p. 271-292). Menninger further indicates that the vengeful climate prevalent in society is due to societal's fascination for violence. (31, p. 186). As for Emmanuel Kant, punishment equivalent to evil done is justified solely on the basis that a crime was committed, for natural equity demands that man be deprived as a result of his offending behaviour. (19, p. 13-18). A person violating the rules acquires an unfair advantage. Justice would then demand the restoration of the equilibrium effecting to exact the debt. (34, p. 79).

In trying to establish the aforementioned equilibrium, penalties are arrived at by legal agents which will have a distressing effect approximately equivalent to the

grievance originally caused. (22, p. 19). To illustrate this point, the following cases reported by the Manitoba Supreme Court are outlined.

CASE 1: Albert left his home about six o'clock one evening and proceeded to a rendezvous with several friends at a nearby hotel. He remained for several hours during which time he consumed a considerable amount of alcohol. He left the hotel and drove home. He later learned that he had struck and killed an eight year old boy. He had no recollection of the accident and it was proven that the drinking had impaired his ability to drive.

SENTENCE: \$500 fine, and 2 years suspended prison sentence.

CASE 2: Bob was visited by several of his former students. They spent a pleasant evening drinking and later went for a ride in Bob's car. The alcohol Bob had consumed affected his driving ability, and he drove off the road and crashed, resulting in the death of one of his passengers.

SENTENCE: \$1,000 fine, and 3 years suspended prison sentence.

CASE 3: Carl was coming home from a friend's party. He had had too much to drink and his driving was impaired. He struck and killed a pedestrian in a crosswalk.

SENTENCE: 6 months suspended jail sentence, and one year suspension of driver's license.

CASE 4: Elvis had been drinking and was driving too fast. He and his companions stopped at several hotels along the highway where they consumed alcohol and they carried beer in the car, where they continued to drink. Elvis lost control of his car and ran down and killed a child walking along the road.

SENTENCE: One year prison sentence, and one year probation.

CASE 5: Fred was out with his buddies and girl friends. They all had had something to drink. Travelling at 70 mph. in a 40 mph. zone, he struck a guardrail which entered the car and decapitated three of the passengers. Fred was seriously injured.

SENTENCE: 10 year prison sentence.

What is interesting to note in these cases, is the increase in penalty with the increase in the harm done. Such may lead one to at least entertain the thought that in order to remain on solid ground, it should be avowed that punishment means the infliction of evil upon the offender. (33, p. 79).

TRENDS IN PUNITIVE EXPRESSIONS

Many authors note that in a large number of enlightened countries, the modern trend is toward a reduction of brutalities and more humane punishment through the use of parole, temporary absences, relaxed visiting privileges, and other amenities

introduced into the modern prisons. (51, p. 332-337). Those reading these text books might infer the existence of punishment as being a vestigial carry over of a barbaric past which will disappear as humanitarianism and rationality spread. (51, p. 332-337). Notwithstanding this view, the infliction of punishment is still resorted to under the disguise of treatment, as many secondary schools in England employ whipping as a method of stimulating study, attention and the love of learning. (32, p. 245). The same sort of system prevails in the penal institutions though the stimulus to conformity is not so blantly physical. Reusche and Kirchheimer (1968) point out, "so long as society believes that the prospect and infliction of punishment can frighten people away from crime, methods are selected which shall have a frightening effect on the potential criminal." (43, p. 5). This view is re-affirmed by the constant demand of the public, the police and the judiciary for the implementation of tougher penalties. (56, p. 153).

Newman (1957) conducted a study with potential victims of a certain form of white collar crime. All the offences used, pertained to food. Newman asked 175 adults to indicate the degree of punishment to be administered to perpetrators of product misbranding, and food adulteration. His general hypothesis was that consumer judgments would be more severe than the actual administrative decisions. The results

indicate that the majority of the consumers (78%) believed that penalties should have been more severe than the actual court decisions. (35, p. 230). A similar study by Rose and Prell (1955) inquired into lay attitudes about forms of punishment to be imposed on persons convicted of 13 minor felonies under California State law. The offences included child beating, assault with a deadly weapon, issuing forged cheques, and assorted other crimes. The study revealed:

a) the crime of severe beating of a child is regarded as being much more serious by public opinion than it is by law;

b) there exists a fixed hierarchy of the seriousness of crimes in the minds of most people; and

c) persons residing in rural areas are inclined to assign stiffer penalties for crimes committed in urban areas. (45, p. 247-259). Rooney and Gibbons (1966) probed into societal views regarding crimes without victims. Their findings suggest the willingness of citizens to allow abortions fairly easily, while hounding and harassing homosexuals and drug addicts. (44, p. 400-410). Boydell and Grindstaff (1972) concluded that personal crimes were sanctioned very severely, in particular, they found an increase in the imposition of the death penalty. (8, p. 179). From his study in social attitudes, Don C. Gibbons (1969) found that crimes of high visibility often involving coercive attacks upon

property are the ones most severely punished. (15, p. 391-397).

One of the more visible crimes alluded to earlier, is impaired driving. With this in mind, the Insurance Bureau of Canada ran a full page advertisement in newspapers across the country in 1974, asking the question, what to do with the drunk driver? Some of the 3,000 replies appear below. (5, p. 3-10).

- Drunk drivers should lose their license for life. I just lost an 8 year old patient because a drunk driver drove into her.
- Mandatory examination of convicted drivers to establish if they are alcoholics. If so certified their license should be suspended indefinitely.
- Police should cruise the parking areas of pubs, especially Friday and Saturday nights.
- In barrooms and hotels, attendants should collect the keys of the cars of men or women who come in to consume liquor and the owners of these.
- A \$2,000 fine or one year in jail, plus five years suspension of license for first offence. Double on second offence.
- Forty lashes and loss of license for life plus 30 years hard labour.

- Should be sent to the far north and other underpopulated areas to drive construction equipment.
- Cut their hair so they're bald, if they're already bald, make them give blood to the Red Cross.
- Jail them for life.
- Saturate them in alcohol.
- Shoot the bastards.

This last statement leads directly into a current and controversial topic of exercising the death penalty as an added expression of societal reaction to crime. The British Royal Commission on Capital Punishment stated in 1953 of the existence of a strong and widespread feeling for retribution in the sense of reprobation, and that the existence of some murderers necessitate the implementation of the death penalty. (17, p. 254). An outstanding justice of the Ontario Appeal Court indicated recently how the relative impunity with which prisoners commit murders, is further evidence of the need for the retentionist cause. (14, p. 83).

Between 1930 and 1967, the number of executions in the U.S.A. by civil authorities totalled 3,859 persons, 45% were white. 54% were Negro and 1% other races. (47, p. 306-307). A Gallup Poll on capital punishment in the United States in 1953, revealed that 60% of those polled favoured capital punishment, in 1958, it was 58% of the higher economic group. (30.p.36).

In the years 1960, 1965, and 1966, combined, 55% of the white men and 35% of the Negro men were in favour, while 42% of the white women and 31% of Negro women approved. (47, p. 306).

It becomes evident that the conventional and obvious argument for legal punishment rests on the recognition of an obligation of compensation by the offender. It is based on the principle of hate, fear and revenge, where man deliberately chooses to do wrong and thereby is responsible for his action. Thus, "however much progressive and academic penology may attack retribution as being ethically indefensible, it remains and probably will continue to be the normal and near universal response to atrocious crime." (49, p. 241).

Gallup Polls on the death penalty show variations of those who favour it and those who do not. The first such poll in Canada was conducted in 1943 and the last one in 1972. The views expressed and spanning almost thirty years, reveal that initial reaction was one of popular approval. As time elapsed, there was a distinct decrease, until the early 1970's when the popularity of capital punishment re-appeared. A similar trend also occurred in the United States between the years 1936 and 1974. (13, p.10). With this apparent rise in approval of the death penalty by the majority of the

Canadian and American public, Fattah (1975) views it as an indication of a hardening of attitudes toward crime and punishment, leading to an increased demand of harsher treatment and more severe penalties. In considering results from Gallup Polls, especially those utilizing phraseology of the order, "Do you believe in Capital Punishment," or "The suspension of the penalty of death comes to an end this year. Do you want it brought back?" Jayewardene (1975) provides a cautious outlook when he points out that, "while a negative answer means total abolition, (a step further from the present situation) a positive answer could mean death in all cases of murder or only in certain areas. The former implies a return to the pre-moratorium situation and the latter a continuation of the present one." (24, p. 132).

The various contentions directed toward the death penalty, appear to be centered around distinct members of society. Studies have attempted to indicate the socio-economic and demographic characteristics of persons aligning on either side of the issue. A study by Elmo Roper (1958) indicated that 53% of the higher economic groups favoured it. (13, p. 32). Vidmar (1973) suggested a definite relationship between higher education and the disapproval of the death penalty. (54, p. 1245-1270). Stouffer (1966) found 47% of the respondents aged 21-29 years scoring as being tolerant, compared with only 18% of

those aged 60 years and over, while 66% of the college graduates were more tolerant compared with 16% of those with only elementary school education. A Canadian Gallup Poll (1973) conducted on the question of parole, asked whether "prisoners who already had a criminal record should be allowed on parole;" 33% of those with university education replied "YES" and only 21% of those with a public school education. (13, p.23). In the United States, the Harris Poll of June 1973 revealed that 59% of those with college education opposed capital punishment, compared to 45% of those with high school education, and 40% of those who completed grade eight or less. (13, p. 25).

Various arguments are advanced to substantiate the retentionist claim, one being that the death penalty is the only just punishment for the most atrocious crimes endangering the public peace. This view is derived mainly from the doctrine of 'pericolosità' (dangerousness) and the irredeemability of particular offences. On this basis, capital punishment is the only secure measure available for it is virtually impossible to find another penalty which could replace it. If imprisonment is in perpetuity, leaving the offender with no hope, the likelihood of erratic and dangerous behaviour must be considered. An equally utilitarian view, expresses the concern of the public funds utilized for the maintenance of anti-social criminals for very long or even

indefinite periods.

A study by Adam Podgorecki (1964) in Poland, examined the relationship between opinions about and attitudes to the law, and various psychological determinants of those opinions and attitudes. The results suggest that respondents exhibiting the stronger tendency to approve of severe punishment including capital punishment, were people with low education, not associated with civic activities, no legal experience, insecure feeling, dogmatic issues, socially maladjusted, frustrated, religious and who were widows or widowers. Whereas, those who leaned more toward milder punishments, tended to be more educated, non-manual workers, engaged in social work, with legal experience, secure, high degree of social affiliation, rationalists in their attitudes, experienced normal upbringing, well adjusted to life, non religious and unmarried.

Having viewed the numerous individuals exhibiting their expressed punitive tendencies, it would only be proper to unmask those deserving individuals comprising the recipient sector. What does the average incarcerated offender look like?, what is his home background?, what makes him tick?. A more definitive answer than the one provided by Edmison (1950) cannot be found.

"We have hundreds of case histories of criminals in our files in the John Howard Society and we find that there's a certain pattern to their background. We find that the average inmate of a penal institution has come from a slum or depressed housing area. You'll find that their addresses are usually from those areas which we have come to describe as 'below the tracks'. It's also just as obvious that your average convict comes from a home whose moral and spiritual structure is shaky and unsatisfactory. You'd see plenty of notations such as 'parents separated', or 'parents divorced' if you were to read our files we nearly always find a most unsatisfactory school history..... most of them have no trade or technical training They are hardly even associated with the Y.M.C.A. or the Boy's Scouts or with organized team sports. In other words, the average prison inmate in Canada has been, in the language of Rupert Brooke, magnificently unprepared for life." (11, p. 2-3).

The outcry for more severe and certain punishment for convicted criminals appears to remain as the acceptable means of establishing social conformity. Jackson Toby (1964) suggests that conformists who identify with the victim are motivated to punish the offender out of a combination of rage and fear, while conformists who identify with the aforementioned type of offender, may wish to punish him for different reasons. The punitive expressions become questionable when coming from a public which is relatively certain that a boomerang effect exists only as a distant possibility. In other words, the public at large, being low probability individuals, (those

with a very small chance of being caught and sanctioned for a crime) may not be completely sincere when expressing views as to the imposition of legal sanctions. Hence, the crucial question becomes the individual's perception of himself as a potential offender. If a person can identify with the possibility of being a recipient of legal sanctions, he may choose not to escalate sanctions for that particular offence. To phrase it in a hypothetical statement, Zimring and Hawkins (1973) state: "Escalating punishment is more likely to be accepted when there is no tendency to identify with the people punished, and conversely, escalating punishment is less likely to be accepted when there is a tendency to identify with the people punished." (61, p. 66).

REFERENCES

1. ADDICTION RESEARCH FOUNDATION OF ONT. The Journal, Oct. 1, 1974, 2, No. 10.
2. ANDENAES, J. (1966) The General Preventive Effects of Punishment. University of Pennsylvania Law Review. 114, 949.
3. ANDREWS, W. (1970) Old - Time Punishments. Detroit: Singing Tree. 87-88.
4. ATTENBOROUGH, F. L. (1963) The Laws of the Earliest English Kings. New York: Russell. 4-75.
5. BAIER, K. (1956) Is Punishment Retributive? Analysis, 16, 25-32.
6. BECCARIA, C. (1963) On Crimes and Punishment. trans. H. Paolucci, Indianapolis: Bobbs-Merrill.
7. BESANT, W. (1873) The History of London, London: Longmans.
8. BOYDELL, C. L. and GRINDSTAFF, C. F. (1972) Public Opinion and the Criminal Law: An Empirical Test of Public Attitudes Toward Legal Sanctions, in C. Boydell and C. Grindstaff, Deviant Behaviour and Societal Reaction. Toronto: Holt-Rinehart, 165-180.
9. CHAMBLISS, W. J. (1966) The Deterrent Influence of Punishment. Crime and Delinquency, 12, 310-317.
10. COULTON, G. G. (1938) Medieval Panorama; The Horizons of Thought. London: Collins, 365-382.
11. EDMISON J.A. (1950) Canadian Crime and Criminals. A Series of lectures given over the Trans-Canada Network of the C.B.C. mimeographed, 2-3.
12. EWING, A. C. (1929) The Mortality of Punishment. London: Kegan-Paul. 13-45.

13. FATTAH, E. (1975) The Canadian Public and The Death Penalty. A Study of a Social Attitude. Burnaby, B. C.: Simon Fraser Univ. 1-96.
14. FOREST, Y. (1967) A Canadian Debate, in Thorsten Sellin, Capital Punishment. New York: Harper and Row. 76-104.
15. GIBBONS, D. C. (1969) Crime and Punishment: A Study in Social Attitudes. Social Forces, 47, 391-397.
16. GLUECK, S. (1928) Principles of a Rational Penal Code, in Stanley E. Grupp, Theories of Punishment. Bloomington, Indiana: University Press. 271-292.
17. GREAT BRITAIN (1953) Royal Commission on Capital Punishment, in Richard Gersten, A Prosecutor Looks at Capital Punishment, Journal of Criminal Law, Criminology, and Police Science. 51, 254.
18. HART, H.L.A. (1962) Prolegomenon to the Principles of Punishment., in P. Laslett and W. C. Runaman, Philosophy, Politics, and Society. Oxford: Blackwell, 158-182.
19. HAWKINS, D. J. B. (1971) Punishment and Moral Responsibility, in S. Grupp, Theories of Punishment. Bloomington, Indiana: Indiana Univ. Press. 13-18.
20. HIBBERT, C. (1966) The Roots of Evil, A Social History of Crime And Punishment. Boston: Little: 3-50.
21. HOBBS, T. (1651) Leviathan. Menston, England: Scholar. 161-167.
22. HONDERICH, T. (1969) Punishment: The Supposed Justifications. New York: Harcourt, Brace and World. 1-39.
23. JANSEN, G. (1969) Crime doesn't Pay: Correlates of a Shared Misunderstanding. Social Problems , 17, 189-201.
24. JAYEWARDENE, C.H.S. (1975) The Canadian Experiment with The Penalty of Death. Ottawa: Dept. of Criminology, Univ. of Ottawa. 128-143.
25. JEUDWINE, J. W. (1917) Tort, Crime and Police in Medieval Britain. London: Stevens.

26. KOESTLER, A. and CAMUS, A. (1969) Reflexions sur la peine capitale. Paris: Calmann-Levy. 19-65.
27. LAWES, L. E. (1940) Meet The Murderer. New York: Harcourt. 178-179.
28. LEE, W. L. (1971) A History of Police in England. New Jersey: Patterson-Smith. 1-20.
29. MANITOBA SUPREME COURT (1972) Reports.
30. MATTICK, H. W. (1966) The Unexamined Death. Chicago: John Howard Association.
31. MENNINGER, K. (1968) The Crime of Punishment, in R. Gerber and P. McAnany, Contemporary Punishment: Views, Explanations, and Justifications. London: Univ. of Notre Dame Press. 178-186.
32. MENNINGER, K. (1971) The Crime of Punishment, in S. Grupp, Theories of Punishment. Bloomington, Indiana: Indiana Univ. Press. 245.
33. MOBERLY, W. Sir (1913) The Rationale of Punishment, in R. Gerber and P. McAnany, Contemporary Punishment: Views, Explanations, and Justifications. London: Univ. of Notre Dame Press. 79.
34. MORRIS, H. (1968) Persons and Punishment, in S. Grupp, Theories of Punishment. Bloomington, Indiana: Indiana Univ. Press. 76-100.
35. NEWMAN, D. J. (1957) Public Attitudes Toward a Form of White Collar Crime. Social Problems, 4, 228-232.
36. OTTAWA CITIZEN, Oct. 24, 1973.
37. PIERIS, P. E. (1950) Sinhala and the Patriots, Colombo: Apothecaries. 561.
38. PIKE, L. O. (1968) A History of Crime in England. New Jersey: Patterson-Smith.
39. PODGORECKI, A. (1966) The Prestige of the Law: Preliminary Research Results. Acta Sociologica. 10, 81-94.
40. QUINTON, A. M. (1956) On Punishment, in P. Laslett, Philosophy, Politics, and Society. Oxford: Blackwell. 83-91.
41. RADCLIFFE-BROWN, A. (1922) The Andaman Islanders. Cambridge: The University Press. 22-87.

42. RAWLS, J. (1971) A Theory of Justice. Cambridge, Mass: Kelknap.
43. REUSCHE, G. and KIRCHHEIMMER, O. (1968) Punishment and Social Structure. New York: Rossell and Russell. 1-23, 193-207.
44. ROONEY, E. A. And GIBBONS, D. C. (1966) Social Reactions to Crimes Without Victims. Social Problems. 13, 400-410.
45. ROSE, A. M. and PRELL, E. (1955) Does the Punishment Fit the Crime, A Study in Social Valuation. American Journal of Sociology, 61, 247-259.
46. SHOHAM, S. (1966) Crime and Social Deviation. Chicago: Regnery. 128-158.
47. SUTHERLAND, E. H. and CRESSEY, D. R. (1970) Criminology. Toronto: Lippincott. 295-319.
48. TAFT, D. R. (1956) Criminology. New York: Macmillan, 349-374.
49. TAPPAN, P. W. (1960) Crime Justice and Correction . Toronto: McGraw-Hill. 237-272.
50. TEEVAN, J. Jr. (1969) Deterrent Effects of Punishment: The Canadian Case, in C. Boydell and C. Grindstaff, Deviant Behaviour and Societal Reaction. Toronto: Holt-Rinehart. 153-164.
51. TOBY, J. (1964) Is Punishment Necessary? Journal of Criminal Law, Criminology, and Police Science, 55, 332-337.
52. TUTTLE, E. O. (1961) The Crusade Against Capital Punishment in Great Britain. London: Stevens.
53. VICKERS, K. H. (1950) England in the Later Middle Ages. London: Methuen. 108-208.
54. VIDMAR, N. and ELLSWORTH P. (1974) Public Opinion and the Death Penalty. Stanford Law Review, 26 , 1245-1270.
55. WALKER, N. (1966) Varieties of Retributivism, in R. Gerber and P. McAnany, Contemporary Punishment: Views, Explanations and Justifications. London: Univ. of Notre Dame Press. 86.
56. WALKER, P. N. (1972) Punishment an Illustrated History. Newton, Abbot: David and Charles, 1-153.
57. WEEKEND MAGAZINE (1974) 30, 3-10.

58. WISSELER, C. (1922) The American Indian. New York: Oxford University Press. 189-192.
59. WORLD BOOK ENCYCLOPEDIA (1964) 14, 13.
60. ZILBOORG, G. (1968) The Psychology of the Criminal Act and Punishment. New York: Greenwood. 69-108.
61. ZIMRING, F. E. and HAWKINS, G. J. (1973) Deterrence, The Legal Threat in Crime Control. Chicago: The Univ. of Chicago Press.

CHAPTER II

METHODOLOGY

The general hypothesis to be tested in this study is that the severity of the punishment that an individual feels should be inflicted for an offence is a function of that individual's identification of himself as a potential offender. The testing of this hypothesis demands:

1. the identification of the individual's perception of himself as a potential offender, and
2. the determination of the individual's views of the appropriate punishment for an offence.

Generally speaking, information relating to the behaviour or attitudes of people can be obtained by direct observation. This is not always possible. The alternative technique is to ask the individual or others who know him, in relation to the relevant information. They are either sent a questionnaire to complete and return, or interviewed when the pertinent questions are asked. These questions may be divided into two categories; 1) questions of opinion and attitude in which the respondent expresses his preferences, and 2) questions of fact which can be readily corroborated.

Numerous studies have revealed that information on personal, factual items like age, sex, and height where the accuracy can be substantiated, has a high reliability. Whereas, the reliability of attitude responses is more difficult to determine. They carry with them a variability because attitudes are subject to change. However, responses from entire groups have been found to be more reliable when compared to individual responses. Errors appear to cancel out. Bain (1931) found that though college freshmen, after a period of two and one half months, had changed their responses on approximately one-fourth of the 3,050 items on the schedule, the overall estimate remained virtually unchanged. (1, p. 445-453). It is for this reason that most researchers are interested in group measures rather than individual responses.

A major point of factual questions, is that the respondent presumably knows much more about his own actions, behaviour and views. If he says that he is a member of a particular party, one should accept this, unless substantial, contradictory evidence is advanced. Similarly, the same person can be believed, perhaps with more caution and reservation, if he expresses a futuristic desire to perform an act.

The difficulty in obtaining accurate information is also a function of the nature of the subject explored.

Moser and Kalton (1971) point out greater difficulty in obtaining information can be expected with a survey subject that is highly complex or emotional. They go on to say that in these cases it would nevertheless be still possible to arrive at the core of the respondent's opinion by relying on the greater flexibility of an informal approach. (13, p. 256-269).

One task to be performed in this study - the identification of the individual's perception of himself as a potential offender - could be reduced to a question of sampling. Here there are two possible procedures that could be followed. The sample could be selected on the basis of the probability that the individuals would perceive themselves as potential offenders, or irrespective of this probability, with the subsequent adoption of a procedure of post sampling stratification. As the probability for the individual's perception of himself as a potential offender considered here is not in general terms as an offender per se, but in specific ones as a particular type of offender, the adoption of the technique of random sampling coupled with post sample would create problems of sample size unless the sample stratification was drawn from a high probability group. Such a group fortunately exists - convicted criminals residing in penal institutions. Apprehended and sanctioned for the commission of specific criminal code offences, they can be considered individuals with a very high probability of perceiving themselves as potential offenders.

In addition, having committed, and having been apprehended and sanctioned for a specific offence, for which the inmate is presently incarcerated, he would be in a position of perceiving himself as an offender in respect to the offence he has been convicted of, and as a non-offender in respect to other offences.

The hypothesis to be tested, suggests that the individual's perceived probability of being the recipient of the available legal sanctions is a factor in the individual's approval of the sanction as an appropriate penalty for the offence. Requesting known offenders to prescribe sanctions for individuals who would commit such offences provides a reasonable test for the hypothesis. If the hypothesis is substantiated, we would expect an inmate convicted of the offence of say, rape, to identify with the case situation in which a rapist is to be sentenced, (seeing himself as a rapist) and to suggest a lesser punishment for the guilty party, while an inmate who has been convicted of some other offence will suggest for the rapist sanctions more severe.

In conducting research within institutions, and especially custodial institutions, not only consideration must be given to the rights and dignity of the inmates, extreme

care must also be taken to ensure that there is no undue disruption of the normal functions and activities. Such concerns, dictate and possibly limit the scope of studies. In this study, there were numerous inmates who desired to participate, but were unable to do so for a number of administrative reasons. One cannot ask that all institutional activities be halted to facilitate the collection of data to meet the methodological requirements of a study. That would not only be impractical, it would be quite irresponsible as well. Again, the possibility exists that some institutional workers and inmates, do not approve of studies and do not desire to participate. Their right to disapprove must also be respected.

Behavioral researchers usually express concern over the representativeness of their samples, especially when generalizations are made on the basis of findings with a self selected sample. Here, the basic statistical principle of random sampling that each person in the universe be given an equal chance to participate is violated. McNemar (1946) phrased the situation wisely when he alluded to the science of human behaviour as essentially the science of the behaviour of sophomores. (12, p. 289-374). This view is widely supported. Smart (1966) examined every article appearing in the "Journal of Abnormal and Social Psychology" during the years 1962-1964.

His findings show that less than one per cent of the studies employed samples from the general population; 73% employed college students, and 33% used the psychology sophomore. (17, p. 115-121).

Every study using information from individuals must depend on volunteers of one type or another. In doing so, a bias is introduced at the very outset. Classically the retention of strict random sampling procedures is favoured with citation of the findings of the Kinsey-study (7.p. 63-153) of sexual behaviour, where a large proportion of a self selected sample claimed possession of unconventional attitudes toward sex, leading to the inference of a similar situation in the general population. The objection, however, becomes invalid if the study is conducted with the awareness that, "the validity of such inference from a sample to a parent-population is, however, contingent on evidence that reliance on volunteer participants does not introduce a bias which influences the findings and consequently calls for a greater delamination of their applicability." (18, p. 539).

Present empirical evidence is not conclusive as to whether volunteer status produces a significant difference. Wallin (1949) concluded that in his study of engagement and its relationships to marriage, any possible bias obtained

from a volunteer sample, did not affect the findings. (18, p. 539-544). Leipold and James (1962) found that subjects who were willing to participate in experiments, had obtained higher grades in one introductory psychology course than did those who did not express such willingness. On the other hand, Rosen (1951) did not find scholastic grade differences between volunteers and non-volunteers. (9, p. 171-174). Wallin (1949) revealed that participants in survey research tended to be younger than non participants. Newman (1957) suggested that among female volunteers, variability of age was dependent on the particular experiment. (14, p. 684). Belson (1960), Wallin (1949), and Schachter and Hall (1952) all agreed that no appreciable differences existed between males and females in their desire to act as subjects. (2, p. 115-126). Martin and Marcuse (1958) found reliabilities of the act of volunteering to range from .67 to .97 for studies of attitudes towards sex, and hypnosis respectively.

The reasons for volunteering as subjects in a study vary. McDonald (1967) and Schubert (1960) (11, p. 175-176) postulated that volunteering is a personal trait seeking arousal and stimulation. This view is consistent with Weissman (1972) when he concludes that prisoners are motivated to act as volunteer subjects for the following reasons:

- 1) financial remuneration, 2) contribution to helping others,

3) participation in an important project, and 4) to break the monotony of prison life. (19, p. 95-100).

More information as to the characteristics can be found in various psychological experiments. Himelstein (1956), Leipold and James (1962), Schubert (1960), simply asked for volunteers to participate in unspecified psychological experiments. Their data reveals no systematic differences between these volunteers and those volunteering for other task requests. (5, p. 138-139). Lasagna and von Felsinger (1954) contend that it is entirely possible that in a given experiment, the unsampled non-volunteer group would not differ at all from the volunteered sample group.

The respondents in this study, wished to be sufficiently convinced that no repercussions would be forthcoming as a result of their participation. The problem of anonymity was foremost in their minds, for they viewed any actions on their part as having some possible affect on their release plans. They wanted to be assured that the study was neither government sponsored nor having any direct ties with the institutional administration. It appeared that they were quite satisfied in accepting the fact that the study was essentially an independent one, originating with the Department of Criminology of the University of Ottawa. Many inmates appeared to equate objectivity and reliability in

such studies, with sponsorship by a recognized university, in contradistinction to governmental or institutional sponsorship. This view is also expressed by Silvert (1965) when he points out; "the peculiar attribute and unique scientific virtue of the university-affiliated social scientist is his freedom. Once it is abridged, for whatever reason, then the people relying on his objectivity are in a serious danger of accepting a misrepresented product." (16, p. 78).

Two recognized methods exist to abstract information from respondents, the personal interview, and the questionnaire-type schedule. Both methods were utilized in this study-the one supplementing the other. In using the questionnaire schedule, a great deal of information can be obtained from populations, covering a large spectrum. Uniformity of stimulus is provided, frankness and honesty is fostered through anonymity, and it has an obvious economical value. However, the researcher must always concern himself with the fact that the data so obtained could provide but a superficial picture of the situation, and that too, not without the possibility of being tainted with error.

It is often possible to check the validity of data obtained. The respondents can be interviewed and the results

from the personal interview checked against that obtained through the questionnaire schedule. If the respondent has accurately expressed his own desires, needs, and values in the responses in the questionnaire-schedule and can verbalize his sentiments in a relaxed atmosphere, the personal interview can be an effective method of testing the validity of the data. In this regard Kerlinger (1973) states; "the best instrument available for sounding people's behaviour, future intentions, feelings, attitudes, and reason for behaviour would seem to be the structured interview coupled with an interview schedule that includes open-end, closed, and scale items." (6, p. 488). In this study personal interviews were conducted with each respondent immediately upon completion of the questionnaire schedule. The interview focused on the hard data supplied by the respondents. The respondents appeared relaxed and frank as they discussed their personal crimes and various other aspects of the schedule. Two further reasons for employing the interview were: 1) to confirm the actual crimes for which the inmates were convicted, and 2) to allay any lingering anxieties as a result of their participation in the study.

In completing the schedule, the respondent may experience consistent and persistent misinterpretation of a question, or misrecording of the answers, "what is sufficiently

simple and straightforward naturally depends on the population surveyed, and the language employed needs to be chosen with the survey population clearly in mind. (13, p. 260). Such sources of error can be eliminated through pre-testing the instrument. By pre-testing the instrument, the less reliable questions, those displaying a lack of stability in the response, may be identified. The schedule utilized in this study was pretested with fifty inmates. As a result, areas of ambiguity were discovered and appropriate corrections effected.

The study was conducted during the month of July, 1975. The sample consisted of penitentiary inmates from the Joyceville Penitentiary, the Collins Bay Penitentiary, the Kingston Reception Centre, and the Prison for Women, all federal institutions in the Kingston, Ontario region. These institutions were selected because; 1) they provided relatively easy access, and 2) federal penitentiary inmates normally have been the recipients of more severe sentences, compared to inmates in provincial institutions.

The schedule, available in English and in French, was divided into two sections. The first consisted of forty-five (45) actual cases depicting a situation or series of illegal criminal events, as defined by the criminal code

of Canada. The respondent was asked to recognize the situation and assign penalties to the person he found to be culpable. The penalties available to the respondent were as follows:

1. no penalty
2. a fine
3. probation
4. one year suspension of drivers license.
5. car taken away for one year.
6. a six months stay as an observer at the emergency ward of a designated hospital, this to be served every second Friday and Saturday between the hours of 6 p.m. and 12 p.m.
7. thirty days or less in jail.
8. thirty-one days to six months in jail.
9. six months to one year in jail.
10. one year to two years in jail.
11. two years to five years in jail.
12. five years to ten years in jail.
13. ten years or more in jail.
14. life in jail.
15. execution.

"Medical Treatment", as a possible penalty was purposely omitted, for it was felt that it might be used as a "catch all" phrase for various offenders. This proved

to be the case as several respondents inquired as to the lack of "medical treatment" in terms of penalty disposition. In selecting the penalties, the respondent was instructed to rank them in three separate categories: 1) Maximum Penalty, 2) Minimum Penalty, and 3) Most Frequent Penalty. Whereas, the maximum and minimum penalty categories would seem to be relatively self explanatory, the "Most Frequent Penalty" category was included to account for extenuating circumstances existing in most legal cases. Boydell and Grindstaff (1972) point out:

"One of the primary difficulties in obtaining information of this nature is that it is impossible to specify in full detail all of the variables that would normally go into a decision concerning the penalty to be assigned. We all recognize, for example, that although assault represents a single category of a criminal offence, there are many considerations that would affect the severity with which any given assault were viewed and thus the severity of the sanction that might be seen as appropriate for the act. These considerations would consist of such things as: the degree of injury suffered by the victim, what motivated the act; social characteristics of both the victim and the offender such as age, sex, social class, and race; and even the attitudes of the participants to the act. Such factors, and many others, are constantly brought into play when persons, either informally or in official capacities are asked to make judgements about the behaviour of others." (3, p. 167).

The respondents were instructed to accept the cases as given, and not to impute any additional factors surrounding the offence. The ranking was done by encircling the appropriate number representing the penalty. An example situation is provided below.

SAMPLE QUESTION:

1) A female provides sexual intercourse in return for money.

- A) Maximum Penalty 1 2 3 4 5 6 (7) 8 9 10 11 12 13 14 15
B) Minimum Penalty (1) 2 3 4 5 6 7 8 9 10 11 12 13 14 15
C) Most Frequent Penalty 1 (2) 3 4 5 6 7 8 9 10 11 12 13 14 15

From the available penalties, No. (7) represents "thirty days or less in jail", No. (1) represents "no penalty", and No. (2) represents "a fine".

All the offences for which a given inmate in the population had been convicted were represented in the forty-five cases provided. A survey of the crimes for which the inmates were incarcerated, was taken prior to the administration of the schedule. This was accomplished by consulting available data from Statistics Canada and the Canadian Penitentiary Service on types of crimes committed. It would have been more efficient to conduct this survey via the institutional records, however, it was felt that this might somehow jeopardize

the anonymity of the respondents. Nevertheless this method proved successful in that no inmate was found not to have his personal crime(s) represented in the cases provided.

The crime committed by the inmate-respondent was established by the administration of the second part of the schedule, and by the personal interviews with each respondent, immediately following the completion of the schedule. The inmate was not made aware of the second part of the schedule, until the completion of the first part. It is an established practice in research that the respondent not prematurely consult the forthcoming schedule-items, so as not to be influenced by them.

The schedule was administered to groups of fifteen respondents. Upon completion by one group, another group was engaged without having had an opportunity for discussion with any previous respondents. Following the administration of the questionnaire and the personal interview, a debriefing session with the participants was conducted as a means of alleviating any lingering anxieties. These sessions sparked numerous informative discussions as inmates attempted to justify and rationalize their respective responses. They also received relevant feed-back on the study. In many studies, it seems that the principal agents, the subjects, are somehow forgotten

no sooner the necessary data is collected. Carlson (1971) points out how out of 100 studies he consulted, only one provided subjects with a written report of the procedures and findings of the study in which they participated. (4, p. 203-219). The inmate participants were given some feed-back in the de-briefing sessions. Further feed-back would be given them and the administration of the institutions, with a copy of the report of the study.

Investigators have found that a return rate of from 10 to 50 percent with mailed questionnaires to the general public is all that can be expected. A return of 35 percent is considered to be average. In this study, the sample size comprised 116, of which 16 had to be excluded for the following reasons: 1) the three penalty categories were not properly answered, 2) some respondents failed to respond to the second part of the schedule, (not wishing to reveal personal information), 3) upon completion, respondents refused to hand in the schedule, (such cases necessitated destruction of the schedule, and 4) the existence of illiteracy among the participants negated their participation. In total, therefore, there were 100 usable responses from three male penitentiaries and one prison for women.

REFERENCES

1. BAIN, R. (1931) Stability in Questionnaire Responses. American Journal of Sociology, 37, 445-453.
2. BELSON, W. A. (1960) Volunteer bias in test room groups. Public Opinion Quarterly, 24, 115-126.
3. BOYDELL, C. L. and GRINDSTAFF, C. F. (1972) Public Opinion and the Criminal Law: An Empirical Test of Public Attitudes Toward Legal Sanctions, in C. Boydell and C. Grinstaff, Deviant Behaviour and Societal Reaction. Toronto: Holt-Rinehart. 165-180.
4. CARLSON, R. (1971) Where is the person in personality research? Psychological Bulletin, 75, 203-219.
5. HIMELSTEIN, P. (1956) Taylor scale characteristics of volunteers and non-volunteers for psychological experiments. Journal of Abnormal and Social Psychology, 52, 138-139.
6. KERLINGER, F. N. (1973) Foundations of Behavioural Research. Toronto: Holt-Rinehart, 117-131, 410-423, 479-489.
7. KINSEY, A. C. (1965) Sexual Behaviour in the Human Male. Philadelphia: Martin.
8. LASAGNA, L. and vonFELSINGER, J. M. (1954) The Volunteer Subject in Research. Science, 120, 359-361.
9. LEIPOLD, W. D. and JAMES, R. L. (1962) Characteristics of shows and no-shows in a psychological experiment. Psychological Reports, 11, 171-174.
10. MARTIN, R. M. and MARCUSE, F. L. (1958) Characteristics of volunteers and non-volunteers in psychological experimentation. Journal of Consulting Psychology, 22, 475-479.
11. McDONALD, J. C. (1967) Why prisoners volunteer to be experimental subjects. Journal of American Medical Association, 202, 175-176.
12. McNEMAR, Q. (1946) Opinion-attitude methodology. Psychological Bulletin, 43, 289-374.
13. MOSER, C. A. and KALTON, G. (1971) Survey Methods in Social Investigation. Glasgow: Machehose, 256-269, 270-301.

14. NEWMAN, M. (1957) Personality differences between volunteers and non-volunteers for psychological investigation: Self-actualization of volunteers and non-volunteers for research in personality and perception. Dissertation Abstracts. 17, 684.
15. SCHUBERT, D. S. P. (1960) Volunteering as Arousal Seeking. American Psychologist. 15, 413.
16. SILVERT, K. H. (1965) American academic ethics and social research abroad: The Lesson of Project Camelot, in H. C. Kelman, A Time to Speak. San Francisco: Jossey-Boss. 74-81.
17. SMART, R. G. (1966) Subject selection bias in psychological research. Canadian Psychologist. 7a, 115-121.
18. WALLIN, P. (1949) Volunteer subjects as a source of sampling bias. American Journal of Sociology. 54, 539-544.
19. WEISSMAN, L. (1972) Personality Factors in Prison Volunteers Related to a Response in Clinical Drug Trials. Journal of Clinical Pharmacology, 12, 5-9, 95-100.

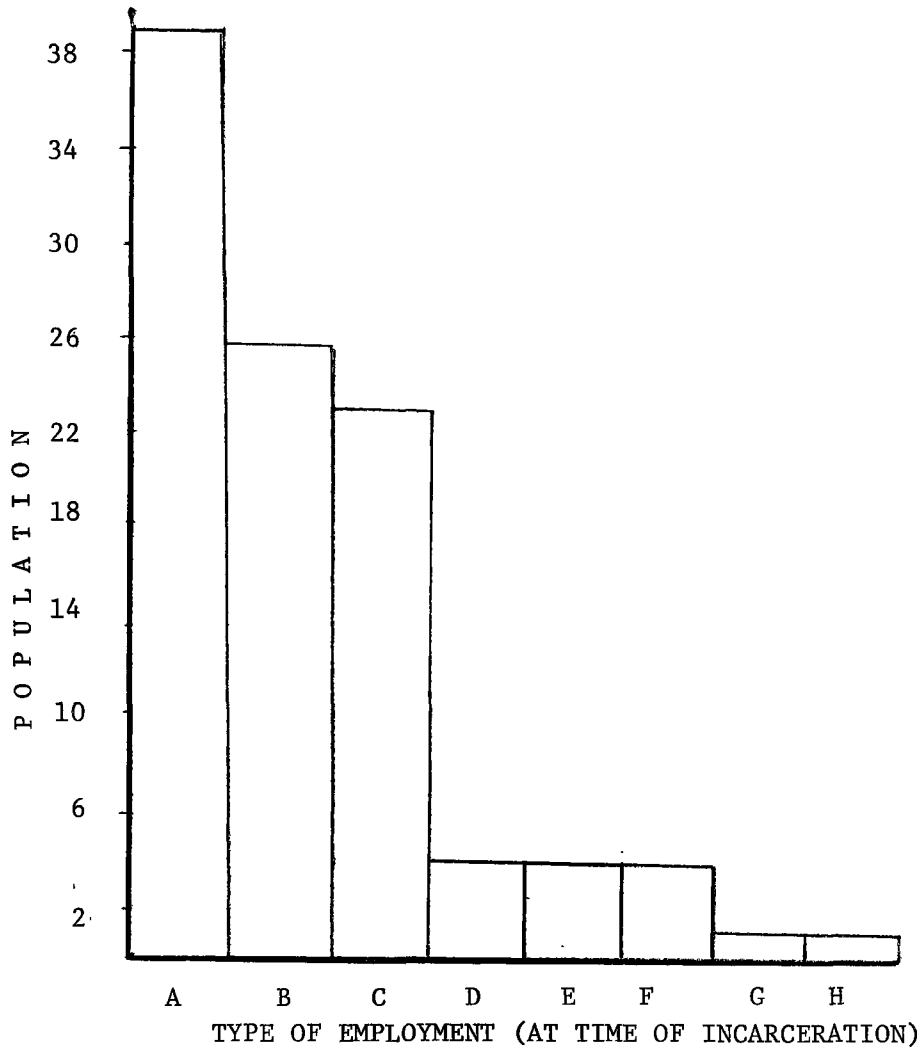
CHAPTER III

RESULTS AND ANALYSIS

The study involved male and female inmates from four penitentiaries in the Kingston area: Kingston Reception Centre, Joyceville Penitentiary, Collins Bay Penitentiary and Kingston Prison for Women. The sample consisted of 100 inmates of which 79 were males and 21 females. The respondents ranged in age from 17 years to 61 years, with a mean of 28.5 years, a median of 26.7 years and a mode of 23.0 years. A large majority (87%) of the sample population was Canadian born. Forty-four percent of the sample were single at the time of the study. The divorced comprised 15%, the separated 9%, while those legally married comprised 16% and those in common law union another 16% (Table I).

The majority of the respondents had been either unemployed (39%) or employed as labourers (26%) or skilled tradesman (23%) at the time of incarceration. A few held managerial positions (4%) or were professionals (1%). If the occupations are arrayed to constitute a hierarchical system the sample population is found to come from the lower end (Figure 1). This distribution, however, is not reflected in the educational achievement of the respondents (Figure 2). The educational achievement of the participants ranged from

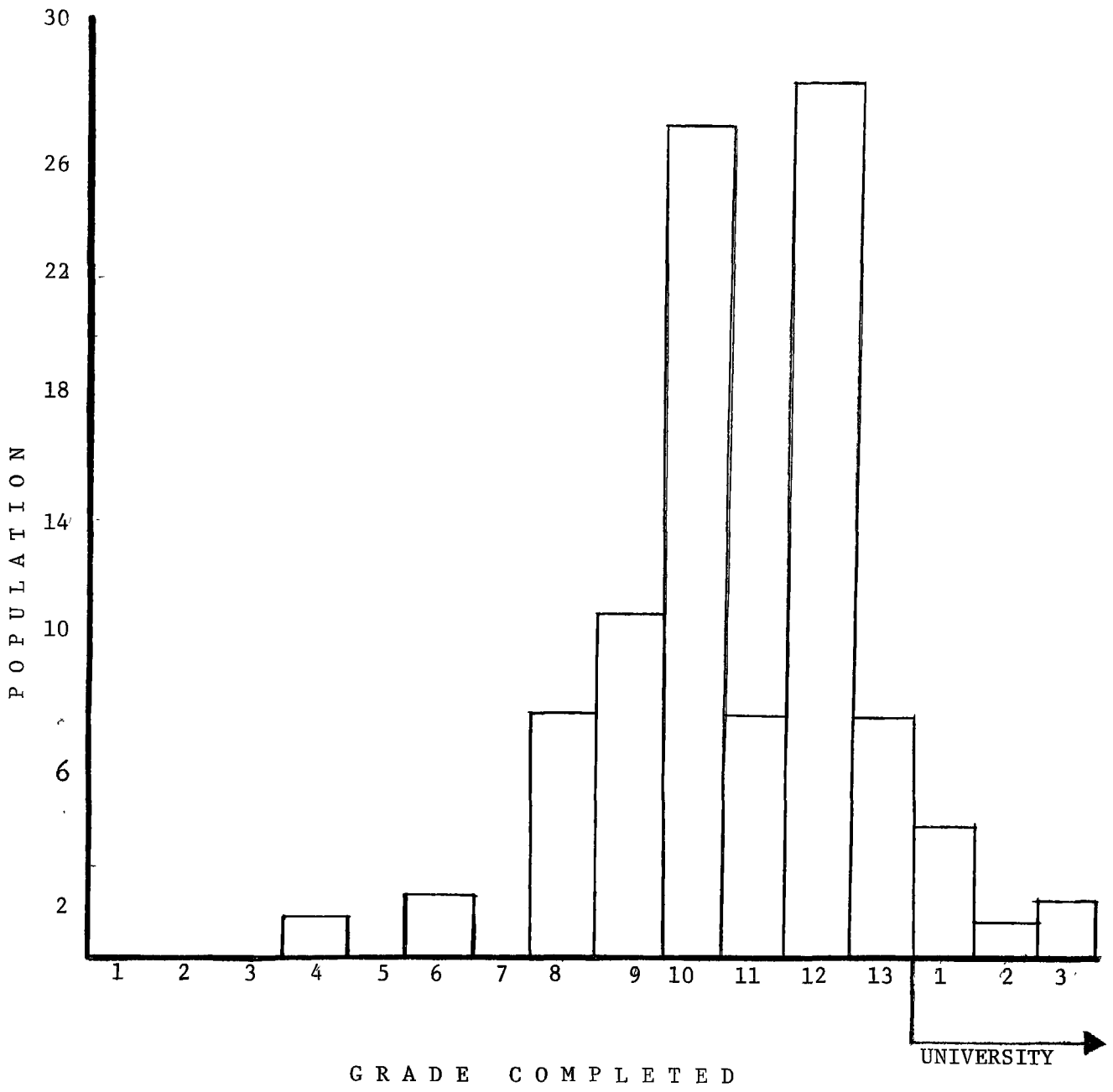
FIGURE: 1 SAMPLE POPULATION EMPLOYMENT STATUS



LEGEND:

- A - UNEMPLOYED
- B - LABOURER
- C - SKILLED TRADESMAN
- D - MANAGERIAL
- E - CLERICAL
- F - STUDENT
- G - HOUSEWIFE
- H - PROFESSIONAL

FIGURE: 2 SAMPLE POPULATION EDUCATIONAL ACHIEVEMENT



grade four (1%) to university (7%). The greater proportion of the sample tended to be between grade ten (27%) and grade twelve (28%), having a mean of 10.8, the median 10.6 and the mode 12.0.

Canadian federal institutions, house, by law, offenders serving sentences in excess of two years. However, there is a possibility of allowing the inmates to serve shorter sentences. Those are usually individuals who have violated their parole regulations and are consequently returned to prison to complete their sentence. In the sample, there were two such respondents. The remainder in the sample were serving sentences that ranged from two years to life. Most of the respondents however, were serving sentences at the lower end of the scale: 2 years (15%), 3 years (20%), and 4 years (11%). The mean was 7.3 years, the median 4.8 and the mode 3.0 years. (Figure 3).

Related to the sentence received is the offence committed. The most common offence committed by 34% of the respondents was Armed Robbery, and the least common offence was Rape (2%). Other offences for which respondents were serving prison terms in frequency were: Narcotics Trafficking 18%, Break and Enter 10%, Non Capital Murder 10%, Theft Over

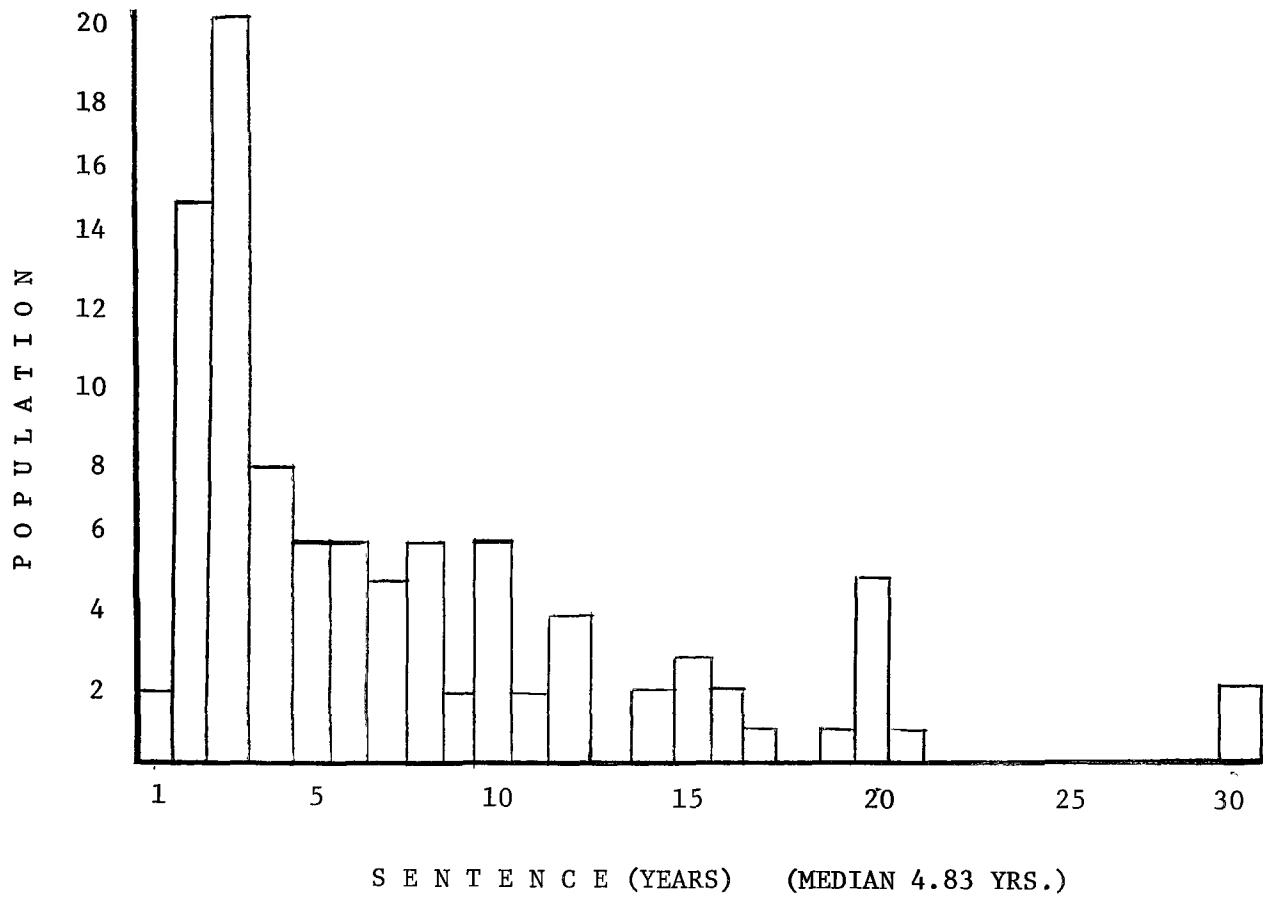
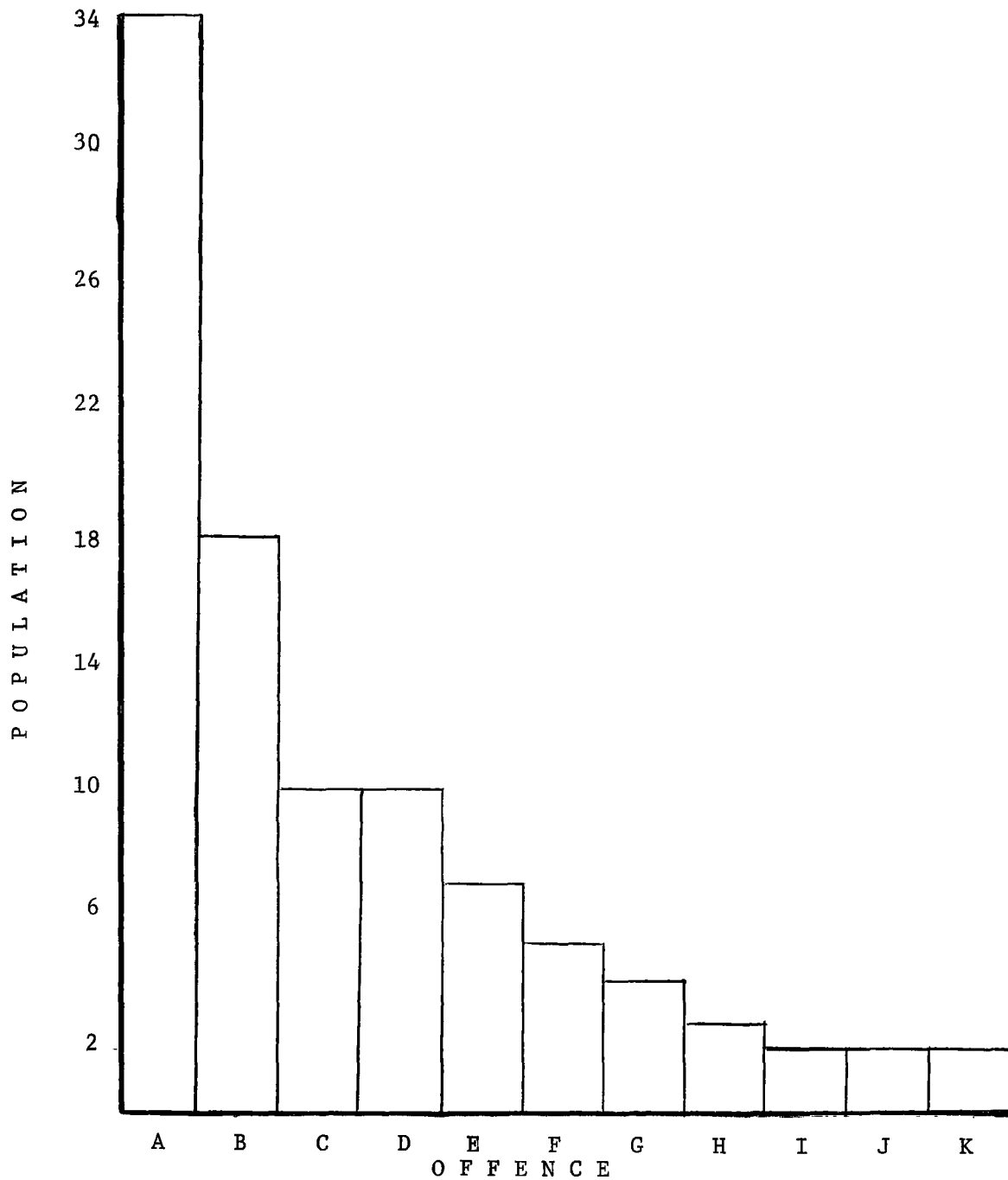
FIGURE: 3 SAMPLE POPULATION SENTENCE RECEIVED

FIGURE: 4 SAMPLE POPULATION AND CRIME COMMITTED

LEGEND:

A - ARMED ROBBERY	H - AUTO THEFT
B - NARCOTICS	I - PAROLE VIOLATION
C - BREAK AND ENTER	J - POSSESSION OF STOLEN PROPERTY
D - NON CAPITAL MURDER	K - RAPE
E - THEFT OVER \$200	
F - ASSAULT	
G - FRAUD	

TABLE: 2 SEX BY TYPE OF CRIME COMMITTED

CRIME	Armed Robb.	Narc.	Break & Enter	Theft over \$200	Fraud	Non-Cap. Murder	Theft of Auto	Assau.	Parole Viol.	Poss Stol. Prop.	Rape	Kidn.	Poss. Dang. Weap.	Ind. Assault Female	Impair. Driving	Arson	TOTAL
MALE	31	10	9	6	3	6	3	3	2	2	2	1	1				79
FEMALE	3	8	1	1	1	4		2								1	21
TOTAL	34	18	10	7	4	10	3	5	2	2	2	1	1			1	100

TABLE: 3 COMPARISON OF OFFENCES COMMITTED BY SAMPLE INMATES
AND BY TOTAL CANADIAN
FEDERAL INMATES (1973/74)

OFFENCES	% DISTRIBUTION OF SAMPLE POPULATION	% DISTRIBUTION OF CANADIAN PENIT. INMATES ¹
ARMED ROBBERY	34%	16%
NARCOTICS TRAFFICKING	18	11
BREAK & ENTER	10	19
NON CAPITAL MURDER	10	1
THEFT OVER \$200	7	8
ASSAULT	5	3
FRAUD	4	6
THEFT OF AUTO	3	1
POSSESSION OF STOLEN PROPERTY	2	4

1. CANADA (1973/74) CORRECTIONAL INSTITUTION STATISTICS

TABLE: 13 SENTENCE SERVED BY RESPONDENS

<u>INMATE No.</u>	<u>TIME SERVED</u>
13	1 month or less
14	2-4 months
7	5-7 months
13	8-12 months
11	1-1½ years
10	1½-2 years
10	2-3 years
5	3-4 years
17	Over 4 years
<hr/>	
100	

\$200 7%, Assault 5%, Fraud 4%, Theft of Auto 3%, Parole Violation 2%, and Possession of Stolen Property 2%. Examination of the sex distribution of the sample with regards to the type of crime committed (Figure 4 and Table 2) reveals that 76% of the females and 81% of the males were convicted of crimes involving the possibility of direct financial gain. Though this suggests similarity of offence, females tend to participate proportionately less in armed robbery but proportionately more in narcotics trafficking and oddly, in assault and non-capital murder. A comparison of the distribution of crimes committed by the sample population with data for the entire population in the federal system (Table 3) reveals the sample population to be overrepresented as far as armed robbery, narcotic trafficking and non-capital murder is concerned and underrepresented in the case of Break and Enter.

The actual amount of time served by the respondents (Figure 13) ranged from one month or less to twelve and one half years, with the mean 23.3 months, the median 14.0 months and the mode 1.0 months. The difference between the mode and the mean suggests that the sample is comprised of mainly those having served a very small part of their sentence. The discrepancy is primarily due to the fact that about

a quarter of the sample came from the Kingston Reception Centre which receives inmates on sentence for approximately three weeks for classification. Seventy-five percent of the participants were recidivists. Of this number, 47% had been incarcerated at least once previously and 28% had had five or more prior sojourns in penal institutions. The male recidivism rate was approximately 80%, whereas the female recidivism rate was 50% (Table 4).

TABLE: 4 SEX AND RECIDIVISM RATE

	RECIDIVISM RATE		
	RECIDIVISTS	NON-RECIDIVISTS	TOTAL
MALE	65	14	79
FEMALE	10	11	21
TOTAL	75	25	100

SAMPLE POPULATION

INMATES AND PENAL SANCTIONS

Of the many misunderstandings about crime and punishment, of particular interest is what Kahil Gibran calls the "we-they fallacy". Quoting the prophet;

"Oftentimes have I heard you speak of one who commits a wrong as though he were not one of you, but a stranger and an intruder upon your world..... But ...even as the holy.....cannot rise beyond the highest.... in each of you.... so the weak cannot fall lower than the lowest which is also in you....the robbed is not blameless in being robbed... yea, the guilty is oftentimes the victim of the injured." (7, p. 133).

By this fallacy, he refers to the tendency in society to treat delinquents and criminals as strangers with subhuman motivations belonging to a distinct order of beings. (7, p. 133). According to this view a person, upon being convicted and sentenced to prison, would have acquired a general disrespect for the legal structure. Ensuing from this is the hypothesis that an offender's views concerning penal sanctions would be markedly different from the sanctions prescribed by the Criminal Code of Canada, which are presumably those contributed to by the free populace. This is the argument presented by Boydell and Grindstaff (1972).

Prior to the analysis of the data for the testing of the substantive hypothesis in this study, it was thought useful to test the more general hypothesis that legal sanctions believed appropriate by offenders deviates significantly from those prescribed by law. Apart from testing this hypothesis, knowledge about the offender's view of the propriety of legal sanctions may be of relevance to the extent that it affects the sense of justice of those who ultimately become the recipients of the sanctions.

The respondents, it will be recalled, were given a wide range of choice of possible sanctions and were requested to indicate what they thought were the most desirable maximum, minimum and most frequent penalties. The analysis of the data demands the use of a descriptive statistic and for this the mode has been selected. What is considered the offender's concept of the desired maximum, minimum and most frequent would be that punishment so considered by the most number of respondents. In addition to this, some indication of the variance in the response would be helpful to indicate the extent to which the modal response presents the consolidated position of the offender group. In the analysis of variance the technique followed by Rist and his colleagues was adopted here. The range of possible

responses has been viewed as a Likert Scale and a mean and Standard Deviation computed. A low standard deviation of 4.0 or less has been taken to imply the existence of consensus while a higher standard deviation the existence of sharp controversy. The offences have been divided into four categories: a) Crimes of Violence Against the Person, b) Crimes against Property, c) Victimless Crimes and d) Other Crimes.

CRIMES OF VIOLENCE AGAINST THE PERSON:

Crimes of violence against the person can be defined as any criminal act that effects the physical well being of the victim. The offences considered in this study falling within this category are: 1) Capital Murder, 2) Non Capital Murder, 3) Rape, 4) Attempted Rape, 5) Kidnapping, 6) Hijacking and 7) Assault.

In this category of crimes (Table 5) the variance indicates consensus in the case of all offences except capital murder, kidnapping and hijacking. For kidnapping (item forty-three (43) of schedule) there was consensus on the maximum penalty. The mode here was 5-10 years. For the minimum penalty and the most frequent penalty the mode was 2-5 years. In the case of capital murder (item 37)

TABLE: 5 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "CRIMES OF VIOLENCE AGAINST THE PERSON"

76

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
CAPITAL MURDER																		
Maximum	7		5	1			1	1		3	6	12	21	28	14	1	11.67	4.0
Minimum	10	4	6				1	1	1	6	14	18	15	18	15	3	10.22	4.52
Most Frequent	5	3	6				1	1		4	12	13	20	27	7	1	11.26	4.03
NON-CAPITAL MURDER																		
Maximum	4	1	2	1							7	13	18	35	16	3	12.50	3.37
Minimum	5	1	5		1			1	1	5	18	10	15	28	7	3	11.38	3.78
Most Frequent	5	1	2				1	1	7	12	12	13	35	8	3		11.90	3.47
RAPE																		
Maximum	3		1			2				4	7	11	29	23	15	1	12.81	3.49
Minimum	5		2			3		3	3	6	12	12	18	14	8	4	11.41	3.50
Most Frequent	3		3	1		2		3		8	12	19	24	13	8	4	11.60	3.27
ATTEMPTED RAPE																		
Maximum	5	2	4			3	1	5	4	8	18	21	13	9	6	1	10.47	3.64
Minimum	8	4	9		2	5	5	2	9	14	24	7	5	4	1	1	8.47	3.90
Most Frequent	5	2	12		1	5	2	1	8	11	19	26	3	3	1	1	9.10	3.77
KIDNAPPING																		
Maximum	3		4			1	2			8	11	25	22	19	3	2	11.56	3.08
Minimum	5		10		2			1	4	13	28	16	9	18	1	3	10.24	4.79
Most Frequent	4	1	4				2	2	1	11	27	19	14	11	1	3	11.06	4.44

Cont'd. TABLE: 5 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "CRIMES OF VIOLENCE AGAINST THE PERSON"

77

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
HIJACKING																		
Maximum	4		4			1	1	2		10	24	23	16	12	1	2	11.28	4.31
Minimum	8	2	9	1		1	1	1	9	22	21	7	7	9	1	1	9.37	4.46
Most Frequent	4	2	7		2			4	8	8	31	9	10	12	1	2	10.25	4.08
ASSAULT																		
Maximum	23	28	16	1	1	2	13	9	4	1	2						3.79	2.90
Minimum	47	37	7		1		6	2									2.05	1.69
Most Frequent	33	31	16				10	7	2	1							2.97	2.50

the mode for the maximum penalty and the most frequent penalty was life imprisonment while the mode for the minimum penalty was both 5-10 years imprisonment and life imprisonment. For hijacking (item 30) the mode for the maximum and the most frequent penalties was 2-5 years imprisonment and for the minimum 1-2 years. The modal punishment for non-capital murder (item 42) was strikingly similar in all categories - life imprisonment, while for the other two offences - rape and attempted rape the mode showed similarity in the maximum and most frequent penalties. For rape (item 44) the sanction was 10 or more years in prison and for attempted rape (item 9) it was 5-10 years in prison. The modal minimum punishment was 5-10 years imprisonment for rape and 2-5 years imprisonment for attempted rape. For assault, (item 2) the modal maximum penalty suggested was a fine while the modal minimum and most frequent was no penalty at all.

Compared with the penalties prescribed in the Canadian penal code (Table 6) the modal maximum suggested by the prisoners are less severe. In the case of capital murder the modal maximum suggested by inmates is life imprisonment. A slightly lower punishment by the prisoners was also found in the case of rape and attempted rape.

TABLE: 6

COMPARISON OF INMATE SANCTIONS AND CRIMINAL CODE SANCTIONS

OFFENCE	MAXIMUM MODAL INMATE PENALTY	MAXIMUM C.C.C. PENALTY
1. CAPITAL MURDER	LIFE IMPRISONMENT	EXECUTION
2. NON CAPITAL MURDER	LIFE	LIFE
3. HABITUAL CRIMINAL	LIFE	INDET. PRISON TERM
4. RAPE	10 OR MORE YRS. IMPR.	10 YRS. IMPR.
5. ATTEMPTED RAPE	5-10 YRS. IMPR.	5 YRS. IMPR.
6. KIDNAPPING	5-10 YRS. IMPR.	5 YRS. IMPR.
7. HIJACKING	2-5 YRS. IMPR.	LIFE IMPR.
8. NARCOTICS TRAFF.	5-10 YRS. IMPR.	LIFE IMPR.
9. ARMED ROBBERY	2-5 YRS. IMPR.	LIFE IMPR.
10. INCEST	5-10 YRS. IMPR.	14 YRS. IMPR.
11. ASSAULT	FINE	5 YRS. IMPR.
12. THEFT OVER \$200	6 MTHS. - 1 YR. IMPR.	10 YRS. IMPR.
13. THEFT UNDER \$200	PROBATION	2 YRS. IMPR.
14. GAMBLING (PROPR.)	NO PENALTY	2 YRS. IMPR.
15. ABORTION	NO PENALTY	LIFE IMPR.
16. CRIMINAL NEGLIGENCE	1 YR. SUSPENSION OF DRIVER'S LICENSE	5 YRS. IMPR.
17. BREAK AND ENTER (HOME)	1-2 YRS. and 2-5 YRS.	LIFE IMPR.
18. POSS. STOL. PROP. (VALUE EX. \$200)	6 MTHS. - 1 YR. IMPR.	10 YRS. IMPR.
19. THEFT OF AUTO	PROBATION	\$500 FINE AND/OR 6 MTHS. IMPR.
20. PAROLE VIOLATION	NO PENALTY	REVOCATION OF PAROLE SUBJECT TO COMPLETION OF SENTENCE IN PRISON.

Strikingly lower penalties were suggested for Hijacking 2-5 years as compared to life, and for Assault a fine as compared to 5 years. Exactly similar punishments were found in the case of non capital murder, with a slightly higher punishment being indicated in the case of kidnapping.

The penalties prescribed in the penal code are the maximum possible. They are not necessarily the ones inflicted. They represent the upper limits of possibility. What transpires one can derive from the analysis of actual court dispositions. Statistical data in this connection was obtained for three offences in this category - non-capital murder, rape and assault (Table 7). In the case of non-capital murder the modal court disposition was the same as the most frequent penalty suggested by the prisoners. In the case of rape the most frequent penalty assigned was strikingly more severe - 10 or more years in prison as compared with 3-4 years imprisonment, and in the case of assault it was strikingly less severe - no penalty as compared with 2-3 years imprisonment.

CRIMES AGAINST PROPERTY:

A crime against property can be viewed as the theft of property from another, without any actual or

TABLE: 7 COMPARISON OF PENALTIES SELECTED BY INMATES AND COURT DISPOSITIONS

OFFENCE	MOST FREQUENT MODAL PENALTY SELECTED BY INMATES	P ²	MODAL COURT DISPOSITION (CANADA) 1973 ¹	P ²
1. MURDER	LIFE IMPRISONMENT	27/99	LIFE IMPRISONMENT	68/77
2. HABITUAL CRIMINAL	LIFE IMPRISONMENT	46/100	PREVENTIVE DETENTION	8/8
3. RAPE	10 YEARS OR MORE IMPR.	24/97	3-4 YEARS IMPR.	24/118
4. ROBBERY	2-5 YEARS IMPR.	33/100	2-3 YEARS IMPR.	210/707
5. NARCOTIC CONTROL ACT	5-10 YEARS IMPR.	17/100	2-3 YEARS IMPR.	112/484
6. ASSAULT (BODILY HARM)	NO PENALTY	33/100	2-3 YEARS IMPR.	55/120
7. POSSESSION OF STOLEN PROPERTY	FINE	30/100	2-3 YEARS IMPR.	99/204
8. THEFT OVER \$200	PROBATION	31/100	UNDER 2 YEARS IMPR.	164/349
9. BREAK AND ENTER	PROBATION	32/100	2-3 YEARS IMPR.	453/840
10. PAROLE VIOLATION	NO PENALTY	67/96	UNDER 2 YEARS IMPR.	353/465

LEGEND: 1 - Adapted from Statistics Canada, CORRECTIONAL INSTITUTION STATISTICS, (1973)
TABLE No. 4, PP. 24-25.

2 - PROPORTIONATE FALLING WITHIN THE CATEGORY

threatened personal injury to the victim. Considered in this study and falling within this category are: 1) Armed Robbery, 2) Theft Over \$200, 3) Theft under \$200, 4) Break and Enter (Home), 5) Theft of Auto, and 6) Possession of Stolen Property. Armed robbery has been included in this category despite the possibility of actual personal injury to the victim and the reality of the threatened personal harm, because the offence itself contains a preponderance of property rather than personal injury elements.

In this category the variance indicates consensus in every case. (Table 8). For armed robbery (item 35) the modal maximum and most frequent penalty suggested was 2-5 years imprisonment while the modal minimum was 1-2 years. For theft over \$200 (item 4) the modal maximum was 6 months to 1 year imprisonment, the modal minimum a fine and the modal most frequent was probation. For Break and Enter (Home) (item 15) the modal maximum was 1-2 years and 2-5 years imprisonment while the modal minimum and the modal most frequent was probation. For auto theft (item 36) the modal maximum and modal most frequent was probation and the modal minimum a fine. For the possession of stolen property (item 4) the modal maximum was 6 months to 1 year imprisonment and the modal minimum and most frequent was a fine. For

TABLE: 8 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "CRIMES AGAINST PROPERTY"

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION	
ARMED ROBBERY																			
Maximum	2	2	6	1	1		3	1	3	12	32	22	12					10.23	3.09
Minimum	7	3	15	1		1		4	13	27	18	7	3					8.22	3.68
Most Frequent	2	3	10	1		1	1	4	7	20	33	9	6		3			9.41	3.27
THEFT OVER \$200																			
Maximum	3	9	17			1	8	11	27	17	6		1					7.14	3.19
Minimum	7	38	26		1		11	8	6	2	1							3.72	2.73
Most Frequent	4	23	31			2	6	12	13	4	4	1						5.06	3.22
BREAK AND ENTER																			
Maximum	2	6	8		1		2	8	21	23	23	4	2					8.67	3.03
Minimum	5	20	36				4	9	16	5	4	1						5.03	3.29
Most Frequent	3	8	32	1			2	12	16	10	13	3						6.52	3.56
THEFT OF AUTO																			
Maximum	3	14	22	2			3	12	21	11	7	1		1		3		6.43	3.50
Minimum	13	34	29			1	6	8	2	2	1		1			3		3.52	2.69
Most Frequent	4	18	40			2	6	8	11	3	5				3			4.76	3.07
POSSESSION OF STOLEN PROPERTY																			
Maximum	8	17	18	1	1		10	11	20	11	3		1					5.95	3.43
Minimum	22	38	22				6	6	3	1	1	1						3.14	2.60
Most Frequent	14	30	28			1	4	5	10	6	1							3.97	3.03

Cont'd.

TABLE: 8 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "CRIMES AGAINST PROPERTY"

84

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
THEFT UNDER \$200																		
Maximum	3	18	30	1			10	18	14	4	2						5.35	3.04
Minimum	18	48	19				9	2	2							1	2.76	1.99
Most Frequent	4	34	36				7	12	3	2							3.84	2.49

theft under \$200 (item 32) the modal maximum and most frequent was probation while the modal minimum was a fine.

Compared with the penalties prescribed in the penal code, the modal maximums suggested by the inmates are far less severe. In the case of armed robbery, the inmates suggested an incarceration period of 2-5 years as compared to life imprisonment. A very reduced prison sentence of 6 months - 1 year was indicated in theft over \$200, while theft under \$200 was viewed as warranting a term of probation rather than a two year prison sentence. The modal maximum penalty for Break and Enter was strikingly lower, 1-2 years and 2-5 years imprisonment as compared to life imprisonment. Significantly lower sentences were expressed by the inmates for theft of auto - probation, as compared to a fine of \$500 and/or 6 months in prison, and Possession of Stolen Property- 6 months to one year imprisonment, as compared to 10 years if the value exceeded \$200.

Court disposition data was obtained for four offences in this category; Armed Robbery, Theft Over \$200, Break and Enter, and Possession of Stolen Property. The prisoners modal sentence was slightly higher for armed robbery, but extremely reduced was the severity indicated by the inmates in the other offences. For the offences of Break and Enter and Possession,

The court disposition is 2-3 years imprisonment for both, as compared to the inmates who saw fit to select probation for the former and a fine for the latter. Probation was again indicated by the respondents in the case of theft over \$200 as compared with the modal court disposition of imprisonment for less than 2 years.

VICTIMLESS CRIMES

Schur (1965) describes crimes without victims, as "the willing exchange, among adults of strongly demanded but legally proscribed goods and services." (9, p. 169). Within this definition the offences included in this category in this study are 1) Prostitution, 2) Homosexuality, 3) Narcotics Trafficking, 4) Gambling, 5) Abortion (doctor), and 6) Abortion (non-doctor).

In this category of offences (Table 9) the modal maximum, minimum and most frequent punishment suggested by the prisoners for all the offences except Narcotics Trafficking (item 10) was the expression of no penalty at all. This view can be considered the consolidated view of the prisoners for the variance indicated consensus rather than controversy. In the case of narcotics trafficking where the variance does not indicate consensus the modal maximum was 5-10 years imprisonment and the modal minimum was 2 - 5 years.

TABLE: 9 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "VICTIMLESS CRIMES"

87

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
PROSTITUTION																		
Maximum	49	17	12				7	7	5	1	1	1					3.04	3.03
Minimum	65	25	5					1	2	1		1					1.79	1.97
Most Frequent	51	31	8				3	2	4				1				2.24	2.33
HOMOSEXUALITY																		
Maximum	26	21	16	1		2	9	6	4	6	4	1		2	2		4.53	3.90
Minimum	47	23	12		1	1	4	3	2	2		2		1			2.98	3.33
Most Frequent	33	30	13		1	6	3	2	4	3	2	1			2		3.40	3.31
NARCOTICS TRAFF.																		
Maximum	8	8	6		1	1		1	4	13	18	23	6	11			9.33	4.26
Minimum	11	16	12		1	1		1	11	15	18	10	1				7.20	4.36
Most Frequent	8	12	7	1	1	2		6	3	15	14	17	6	8			8.47	4.39
GAMBLING																		
Maximum	31	22	10		1		8	5	10	6	7						4.33	3.66
Minimum	52	32	9		1		2	1	1	1	1						2.00	1.88
Most Frequent	32	46	9				3	1	5	2	1	1					2.68	2.58
ABORTION (DOC.)																		
Maximum	68		4		1	1	2		3	2	4	6	3				3.19	3.97
Minimum	74	10	3	1					3	6	2		1				2.29	2.99
Most Frequent	67	5	6		1		2		6	5	3	4	1				3.12	3.74

Cont'd.

TABLE: 9 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "VICTIMLESS CRIMES"

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
ABORTION (NON- DOCTOR)																		
Maximum	43	10	8					1	8	7	7	6	5	2	1	2	5.04	4.81
Minimum	49	14	9	1		1		4	4	4	8	4	1	3		2	3.72	4.04
Most Frequent	42	13	9	1			2	3	6	11	3	4	2	2		2	4.44	4.30

Comparison of the modal maximum penalty suggested by the prisoners and the modal maximum available under the penal code, reveals a sharp leniency by the inmates in all of the four offences considered. Narcotics trafficking is viewed by the inmates as warranting 5-10 years as compared to life imprisonment. In terms of abortion and gambling the maximum modal penalty believed appropriate by the respondents was no penalty whatsoever as compared with a life sentence and 2 years respectively.

The offence available for consideration in terms of modal court disposition in this category was narcotics trafficking. The punishment selected by the prisoners was significantly higher, 5-10 years imprisonment as compared with 2-3 years imprisonment.

OTHER CRIMES

Within this category are included offences which do not clearly fall within any of the previous categories. The offences presented (Table 10) are extremely varied ranging from "Habitual Criminal" to "Impaired Driving". This range

TABLE: 10

PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "OTHER CRIMES"

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
HABITUAL CRIM.																		
Maximum	2		1					1	1		1	10	12	51	21		13.38	2.38
Minimum	3	2	1		1	4			2	3	7	14	27	29	7		11.94	3.30
Most Frequent		2	2			2			1	2	9	11	14	46	11		12.73	2.66
IMPAIR. DRIVING																		
Maximum	7	17	10	23	10	5	14	5	4	1	2			1	1		4.78	2.79
Minimum	19	43	14	16	2	2	1	1			1			1			2.73	1.95
Most Frequent	10	37	11	24	5	6	3	1	1	1					1		3.37	2.16
FAILING TO REMAIN AT THE SCENE																		
Maximum	2	2	6	2	5	6	1	3	12	13	27	8	7	3	1	2	9.21	3.28
Minimum	6	13	9	9	6	7	2	6	8	10	14	4	3		1	2	6.70	3.81
Most Frequent	1	4	13	5	3	9	3	8	9	11	13	12	3	2	1	3	8.06	3.56
PAROLE VIOLATION																		
Maximum	59	8	6			1	11	4	6	1						4	2.83	2.88
Minimum	75	9	5				4	2	1							4	1.67	1.75
Most Frequent	67	12	6				5		5					1		4	2.11	2.48
CRIMINAL NEGL.																		
Maximum	6	16	7	20	11	11	10	6	4	5	2					2	4.95	2.59
Minimum	11	34	16	21	4	8	1	2		1						2	3.18	1.75
Most Frequent	9	32	13	21	8	7	3	1	2	2						2	3.52	2.03

TABLE: 10 PERCENTAGE DISTRIBUTION OF PENALTIES SELECTED FOR "OTHER CRIMES"

	No Penalty	A Fine	Probation	1 yr. Susp. of Dr. Lic.	Car Taken Away for 1 yr.	Hosp. obs. for 6 mths.	30 days or less in pris.	31-days - 6 months	6 Months to 1 yr.	1 yr.-2yrs.	2yrs.-5yrs.	5yrs.-10yrs.	10yrs. or more	Life	Execution	No Resp.	MEAN	Std. DEVIATION
CONCEALED WEAPON																		
Maximum	29	17	18		1		11	10	8	3	1					2	4.00	3.15
Minimum	38	35	14	1			3	4		2						3	2.34	2.02
Most Frequent	31	27	22	1		2	8	2	2	2						3	2.85	2.31
POINTING RIFLE																		
Maximum	8	3	6		1	4	3	4	17	20	13	16	2	1		2	8.59	3.51
Minimum	13	15	24			5	3	4	12	9	7	5	1			2	5.57	3.85
Most Frequent	9	9	12			7	6	12	13	13	8	7	2			2	7.02	3.66
DANGEROUS USE OF FIREARM																		
Maximum	10	12	16			4	7	11	15	9	9	4	1			2	6.40	3.68
Minimum	22	28	17			2	5	4	12	4	4					2	4.08	3.34
Most Frequent	15	15	23			5	7	9	12	5	3	3	1			2	5.15	3.53
PROHIBITED WEAP.																		
Maximum	41	17	15	1	1	1	6	10	4	3		1					3.35	3.01
Minimum	59	28	8	1			2	2									1.73	1.37
Most Frequent	48	20	20	1		1	1	3	4	2							2.45	2.30

was purposely selected as a means of capturing as wide a spectrum of offences as possible. The variance indicates a consensus of opinion in all of the offences considered.

The seriousness of a habitual criminal (item 18) is reflected in the sanctions viewed appropriate, as the modal penalty for all three categories was life imprisonment. Penalty number six which was included specifically as an alternate sentence for impaired driving (item 34) was marginally acknowledged by the inmates, as the maximum mode penalty was one year suspension of driver's license and a fine being indicated as both the minimum and most frequent sentence. The modal penalties for all three categories in the case of failing to remain at the scene (item 39) was 2-5 years imprisonment. A consensus of no penalty in all categories was considered as the modal sanction for the offence of concealed weapon, (item 26) prohibited weapon (item 11) and parole violation (item 16). During the writer's discussions with the respondents upon their completion of the schedule, it became apparent as to the existence of a general dissatisfaction with the entire concept of parole from prisons. Many respondents were resentful toward what they categorized as an "unfair test of their ability to cope with societal norms". For criminal negligence (item 27) the maximum modal penalty was a one year suspension of the driver's license, whereas a fine was indicated as the modal minimum and most frequent punishment.

In the case of pointing a rifle (item 45) the maximum modal penalty was a prison term of 1-2 years. The minimum modal sanction was probation and the most frequent being both 6 months - 1 year and 1-2 years imprisonment. For the offence involving the dangerous use of firearms (item 38) the maximum modal was probation, the minimum modal a fine and the most frequent modal also being probation.

In comparing the modal maximum penal code sentences in terms of habitual criminal, criminal negligence and parole violations, the prisoners express a comparable sentence for the habitual criminal but a significant reduction by the inmates is indicated for the other two offences.

Court disposition data as to habitual criminal and parole violation was obtained for comparison. A striking similarity was expressed in relation to the habitual offender, the inmates indicating life imprisonment as compared with preventive detention. Parole violation as one recalls, merits no penalty according to the prisoners, although the modal court disposition is imprisonment for less than 2 years.

When a comparison is made of the inmate's sanction selection and the Court Disposition for 1973, the agreement in type of sentence believed appropriate is quite evident insofar as the traditionally violent crimes are concerned. There emerges however, a significant disparity when the offences are

of a less violent nature. Whereas the courts appear to be content with the continued imposition of prison terms for such offences, the prisoners indicate that offenders involved in these types of crimes could best be dealt with in the community. A similar view was recently put forth by the Law Reform Commission of Canada.

"Because of the doubtful effectiveness of imprisonment in reducing recidivism, however, and the high costs of imprisonment, both economic and social costs, as well as direct and indirect costs, economy demands that imprisonment be used with restraint." (3, p. 13)

Crimes of violence against the person were generally sanctioned quite severely with long prison terms and execution for capital and non capital murder. The offences of rape and attempted rape were viewed as meriting substantial terms of imprisonment. As might be expected, crimes against property were sanctioned less severely, with the general view being the imposition of prison sentences. Victimless crimes produced a common leniency in the sanctions prescribed. Prostitution, Homosexuality and Gambling headed the list of offences receiving the majority support for either a very lenient penalty or none at all. The exception in this category was Narcotics Trafficking which was viewed as necessitating long, severe terms of im-

prisonment. As for other offences, the sanctions were individualized, producing a variety of responses.

The attitudes expressed by the sample population in regards to legal sanctions they imposed on particular offenders in respect of a specific crime, are generally in accordance with the findings of Boydell and Grindstaff (1970) in which they tested a sample of householders in London, Ontario, as to their attitudes toward legal sanctions. Agreement on appropriateness of sentence was further indicated by comparisons with penal code sanctions and court dispositions. It appears that prisoners sanctioned offenders in relation to the particular merits of the offence, providing severe penalties for the more traditionally violent crimes and striking reductions in less violent offences. The fact that inmate attitudes toward penal sanctions are not unlike those expressed by other sectors of society, may be indicative of an incarcerated people which appreciate similar attitudes toward legal sanctions.

One might speculate as to the apparent close association between inmate and non inmate views toward legal sanctions. It could be suggested that:

- 1) Inmates having experienced the criminal process may be quite

familiar with the prescribed legal sanctions for various criminal offences.

- 2) The penitentiary environment may have produced in the inmate a knowledge of the general sentences received by fellow prisoners.
- 3) As a result of incarceration, the inmate may have come to accept existing attitudes,
- 4) The possibility exists that inmate attitudes toward criminal penal sanctions is generally that held by society.

If the most frequent penalty selected by the respondents is considered to be the penalty that should be most often assigned to the offender, it would be expected that this penalty would represent a point midway between those penalties considered the desirable maximum and the desirable minimum. This expectation stems from consideration of these two penalties as polar ends of a penalty continuum on which penalties imposed would be distributed in a normal distribution. If such is the case there should be a statistically significant correlation between the "most frequent penalty" and the computed average between the "maximum" and "minimum".

When two variables are interally scaled, Pearson's C.C. becomes an appropriate measure of association., (6, p. 414).

The results presented in Table 11 reveal a significant relationship between the penalties assigned by the respondents in the "most frequent" category and the average of the "maximum" and "minimum" penalty categories.

The substantive hypothesis to be tested in this study, as previously stated, is that if an individual identifies himself as a potential recipient of legal sanctions as a result of conviction of a criminal offence, the punishment he would consider appropriate would not be as severe as that considered appropriate by a person who does not so consider himself. This hypothesis can be tested on the general level, with a comparison between the punishment considered desirable by the offender population and the non-offender population - considered as two distinct groups- on the one hand and, on the other hand, on a specific level with the groups comprising those convicted of the offence and those not so convicted. On the general level it has been found that the offender group as a whole tends to agree with the punishments imposed by the court for the more serious crimes while they disagree with the punishments imposed for the less serious ones. These results tend to support the hypothesis. As the offenders have been convicted for the less serious crimes, the results demand the test of the hypothesis on the specific level before they could be

TABLE: 11 PEARSON'S (PRODUCT-MOMENT CORRELATION COEFFICIENT) BETWEEN THE "MOST FREQUENT PENALTY" AND THE COMPUTED MEAN OF THE MAXIMUM AND MINIMUM PENALTIES FOR SELECTED OFFENCES.

OFFENCE	PEARSON'S r .*
ARMED ROBBERY	0.6858
NARCOTICS TRAFFICKING	0.7436
BREAK AND ENTER	0.6037
THEFT OVER \$200	0.5459
FRAUD	0.6698
NON CAPITAL MURDER	0.7027
THEFT OF AUTO	0.4990
ASSAULT (BODILY HARM)	0.5901
PAROLE VIOLATION	1.000
POSSESSION STOLEN PROPERTY	1.000
RAPE	1.000
KIDNAPPING	1.000
IMPAIRED DRIVING	1.000

*SIGNIFICANT AT 0.500 AND OVER

considered supportive evidence.

If the hypothesis is correct it would be expected that an individual, who has committed and has been convicted of a particular offence, and consequently most likely to identify with individuals who may commit and be considered of that offence would express a lesser punishment as the desirable for such an offence. Whereas, the individual who has committed and has been convicted of some other offence would express a more severe penalty. Thus, an offender convicted of say non-capital murder, would express as desirable a less severe punishment for that offence than a person convicted of armed robbery.

For the testing of this hypothesis, the sample of offenders can be divided into two groups according to the offence they have committed - those who have been convicted of a specific offence and those who have been convicted of some other offence. When this division is made, there are only four offences-armed robbery, narcotic trafficking, break and enter, and non-capital murder, - for which a group division sufficient for analysis purposes could be obtained. The hypothesis was tested using the "mean punishment". The data presented in Table 12 does not support the hypothesis. The punishments expressed as desirable by the offenders

TABLE: 12

COMPUTED MEAN OF "EXPERIMENTAL" AND "CONTROL" GROUPS

CRIME	GROUP	No. OF CASES	"MEAN"	STANDARD DEVIATION	STANDARD ERROR	F VALUE	2-TAIL PROB.
ARMED ROBBERY	#1	34	9.3529	3.507	0.601	1.37	0.277 (N.S.)
	#2	66	9.1591	2.995	0.369		
NARCOTICS TRAFFICKING	#1	18	8.5278	3.652	0.861	1.30	0.550 (N.S.)
	#2	82	8.2073	4.171	0.461		
BREAK AND ENTER	#1	10	7.0500	3.140	0.993	1.32	0.473 (N.S.)
	#2	90	6.8278	2.731	0.288		
NON CAPITAL MURDER	#1	10	10.000	4.842	1.531	1.59	0.261 (N.S.)
	#2	90	11.7611	3.843	0.405		

KEY: GROUP # 1 - INMATES CONVICTED OF THE CRIME
2 - INMATES NOT CONVICTED OF THE CRIME

* SIGNIFICANCE LEVEL .05

convicted of an offence is not significantly different from that expressed as desirable by offenders convicted of other offences.

The data obtained in this study suggested the possibility that the expression of punitive sanctions is a process which is not affected by the possible identification of oneself as a potential recipient of the particular punishment. The data suggest that individuals can select punitive sanctions with an objectivity devoid of personal interests.

The test of the hypothesis on the general level, it would be recalled, indicated that the offender's views of appropriate punishment tended to mirror actual court dispositions as far as the more serious offences were concerned, with discrepancies only in the case of the less serious. When it is realized that the courts are guided in their behaviour by the penal code even though they may disagree with the desirability of the sanctions prescribed therein, the results of this study could perhaps be considered indicative of a homogeneity of attitudes toward legal sanctions among inmates which is rooted somewhere in society. Offenders appear not only to share other inmate views toward penal sanctions, they also reflect more general views toward the

type and degree of punishment believed appropriate in the legal process.

The results of this study - non support for hypothesis - may also be attributed to the size of the sample. It will be recalled that the post sample stratification performed for the test of the hypothesis on the more specific level permitted consideration of only four offender groups and in two of these groups the number of cases in the offender group was ten. Had a larger sample been used not only would the group have been larger, a greater number of offences could also have been considered. Again, the method of testing through computation of a hypothetical mean may not have been the best.

The concept of punishment as a means of social control has its base in hedonistic psychology. This study was undertaken questioning one of the implicit basic assumptions the ability to objectively assess the level of preventive or deterrent pain. Questioning this assumption, it was hypothesized that the concept of the desirable punishment was a function of the individual's identification of himself as a potential offender. The data obtained in this study have not supported the hypothesis, and in not so doing have raised further questions:

- 1) Are offenders truly a distinct group of beings who do not or cannot appreciate societal norms?
- 2) If offenders as the recipients of prescribed legal sanctions, express views toward these sanctions similar to that found in the law, does it indicate an inadequacy of the existing penal structure?
- 3) Can the amount of punishment required to effect compliance of societal norms be computed?
- 4) Is punishment an effective method of expressing societal disapproval?

These are questions that can be explored in future studies.

REFERENCES

1. JAYEWARDENE, C.H.S. (1975) The Canadian Experiment with The Penalty of Death. Ottawa: Dept. of Criminology, Univ. of Ottawa.
2. KERLINGER, F. (1964) Foundations of Behavioural Research. Toronto: Holt-Rinehart.
3. LAW REFORM COMMISSION OF CANADA (1974) The Principles of Sentencing and Disposition. Working Paper No. 13.
4. LEVY, S.G. (1968) Inferential Statistics in the Behavioural Sciences. Toronto: Holt-Rinehart. 161-173.
5. MARTIN'S ANNUAL CRIMINAL CODE (1974).
6. MENDENHALL, W. LYMAN, O. and LARSON, R. (1974) Statistics: A Tool for the Social Sciences. North Scituate, Mass.: Duxbury.
7. PORTERFIELD, A. L. (1973) The "We-They" Fallacy in Thinking About Delinquents and Criminals, in W. H. Lyle, Behavioural Science and Modern Penology. A Book of Readings. Springfield, Ill.: Thomas. 133-140.
8. RIST, R. C. et al (1973) Public Perceptions of Sexual Deviance: A Study of the Interrelations of Knowledge and Values, mimeographed, Portland State University: Center for Sociological Research.
9. SCHUR, E. M. (1965) Crimes Without Victims. Englewood-Cliffs, New Jersey: Prentice-Hall. 169.

CHAPTER IVSUMMARY

The study traces the historical development of punitive sanctions showing how operationally the term "punishment" was defined to focus on a specific interpretation. The variations in punitive methods employed by past and present civilizations - social degradation, financial loss, physical torture, banishment, outlawry, imprisonment and death, are viewed in relation to the traditional rationales for punishment. Present trends in punitive expressions bring into perspective contemporary demands for dealing with convicted persons.

Punitive sanctions as a reaction to unlawful acts leads to a questioning of the differences associated with the type of sanction thought as being the most appropriate for the particular offence committed. It was hypothesized that the severity of the punishment that a person believes should be administered to a convicted offender, is a function of that person's identification of himself as a potential offender. Otherwise stated, if a person can identify with the possibility of being the recipient of the legal sanctions he wishes to impose on others, he may choose not to escalate the sanctions for the particular offence.

The testing of the hypothesis demanded; 1) the identification of the individual's perception of himself as a potential offender, and 2) the determination of the individual's views of the appropriate punishment for an offence. The identification of the individual's perception of himself as a potential offender could be reduced to a sampling question. In view of the fact that the individual's self perception is in specific terms as a particular type of offender, the sample would necessitate its origin being from a high probability group. Convicted criminals in penal institutions represent such a group. Having been convicted and sanctioned for various offences, these individuals can be considered as possessing a very high probability of perceiving themselves as potential offenders, (their conviction makes the probability one hundred per cent) in respect to the offence(s) they were convicted of and as non offenders in respect of offences not committed by them.

The determination of the individual's view of the appropriate punishment for an offence is established by a schedule in which the respondents indicated what they considered to be the appropriate penalty for various offences.

The data collected in this study did not support the hypothesis, tested at the specific level considering punishment prescribed for specific offences and at the general level tested ignoring the offences committed and treating the offenders as a homogenous group. Not only was the hypothesis not supported, the data indicated a striking similarity between the "experimental" and "control" groups suggesting that the offender's expression of desirable punishment has its roots in a common attitude which perhaps characterizes external society.

"The Punishment all sublime
is to make the penalty fit the crime."

BIBLIOGRAPHY

- ADDICTION RESEARCH FOUNDATION OF ONTARIO. The Journal, Oct. 1, 1974. 2, No. 10.
- ANDENAES, J. (1966) The General Preventive Effects of Punishment. Univ. of Pennsylvania Law Review. 114, 949.
- ANDENAES, J. (1974) Punishment and Deterrence. Ann Arbor: The Univ. of Michigan Press.
- ANDREWS, W. (1970) Old-Time Punishments. Detroit: Singing Tree.
- ATTENBOROUGH, F. L. (1963) The Laws of the Earliest English Kings. New York: Russell. 4-75.
- BAIER, K. (1956) Is Punishment Retributive? Analysis, 16, 25-32.
- BAIN, R. (1931) Stability in Questionnaire Responses. American Journal of Sociology. 37 445-453.
- BARZUN, J. (1962) In Favour of Capital Punishment. The American Scholar, 31, 181-191.
- BECCARIA, C. (1963) On Crimes and Punishment. trans. H. Paolucci, Indianapolis: Bobbs-Merrill.
- BELSON, W. A. (1960) Volunteer bias in test room groups. Public Opinion Quarterly, 24 115-126.
- BENN, S. (1967) Punishment, in P. Edwards (ed.) The Encyclopedia of Philosophy. New York: Macmillan.
- BENTHAM, J. (1843) The Rationale of Punishment, in J. Bowring (ed.), The Works of Jeremy Bentham. Edinburgh: Tait.
- BENTHAM, J. (1789) An Introduction to the Principles of Morals and Legislation. Oxford: Blackwell.
- BESANT, W. (1893) The History of London. London: Longmans.

- BOYDELL, C. L. and GRINDSTAFF, C. (1972) Public Opinion and the Criminal Law: An Empirical test of Public Attitudes Toward Legal Sanctions, in C. Boydell and C. Grindstaff, Deviant Behaviour and Societal Reaction. Toronto: Holt-Rinehart. 165-180.
- BRENTANO, F. (1969) The Origin of Our Knowledge of Right and Wrong. London: Routledge and Kegan Paul, 118-122.
- CALDWELL, R. G. (1947) Delaware's Whipping Post. Philadelphia: Univ. of Pennsylvania. 69-70.
- CARLSON, R. (1971) Where is the person in personality research? Psychological Bulletin, 75, 203-219.
- CHAMBLISS, W. J. (1966) The Deterrent Influence of Punishment. Crime and Delinquency, 12, 310-317.
- COCHRANE, R. (1971) The Structure of Value Systems in male and female prisoners. British Journal of Criminology, 11/1, 73-79.
- COULTON, G.G. (1938) Medieval Panorama, The Horizons of Thought. London: Fontana Library. 365-382.
- DOUGLAS, W. O. (1954) An Almanac of Liberty. New York: Doubleday.
- EDMISON, J. A. (1950) Canadian Crime and Criminals. A Series of four lectures given over the trans-Canada Network of the C.B.C. (mimeographed) 2-3.
- EWING, A. C. (1929) The Morality Of Punishment. London: Kegan, Paul. 13-45.
- EZORSKY, G. (1972) Philosophical Perspectives on Punishment. Albany, N.Y. State University of New York.
- FATTAH, E. (1975) The Canadian Public and the Death Penalty: A Study of a Social Attitude. Burnaby, B. C.: Simon Fraser Univ. 1-96.
- FITZGERALD, P. (1962) Criminal Law and Punishment. Oxford: Clarendon Press.
- FOREST, Y. (1967) A Canadian Debate, in T.Sellin, Capital Punishment. New York: Harper and Row. 76-104.

- GERSTEIN, R. M. (1960) A Prosecutor Looks at Capital Punishment. Journal of Criminal Law, Criminology and Police Science, 51, 252-256.
- GIBBONS, D. C. (1969) Crime and Punishment: A Study in Social Attitudes. Social Forces, 47, 391-397.
- GIBBS, J. P. (1966) Sanctions. Social Problems, 14, 147-159.
- GLUECK, S. (1928) Principles of a Rational Penal Code, in S. E. Grupp, Theories of Punishment. Bloomington, Indiana, University Press. 271-292.
- GREAT BRITAIN, (1953) Royal Commission on Capital Punishment Report, in R. Gerstein, Punishment, Journal of Criminal Law, Criminology, and Police Science, 51, 254.
- GRUPP, S. E. (1971) Theories of Punishment. Bloomington, Indiana, University Press.
- HALL, H. L. (1963) Law, Liberty, and Morality. New York: Random House.
- HART, H.L.A. (1962) Prolegomenon to the Principles of Punishment, in P. Laslett and W. C. Runaman, Philosophy, Politics, and Society. Oxford: Blackwell, 158-182.
- HART, H.L.A. (1968) Punishment and Responsibility. Oxford: Clarendon. 1-27.
- HAWKINS, D.J.B. (1971) Punishment and Moral Responsibility, in S. Grupp, Theories of Punishment. Bloomington, Indiana: University Press. 13-18.
- HENTIG, H. (1937) Punishment: Its Origin, Purpose and Psychology. London: Hodge.
- HIBBERT, C. (1966) The Roots of Evil, A Social History of Crime and Punishment. Boston: Little, Brown. 3-50.
- HIMELSTEIN, P. (1956) Taylor scale characteristics of volunteers and non-volunteers for psychological experiments. Journal of Abnormal Psychology, 52, 138-139.
- HOBBS, T. (1651) Leviathan. Menston, England: Scholar Press 161-167.
- HONDERICH, T. (1969) Punishment: The Supposed Justifications. New York: Harcourt. 1-39.
- HOWARD, J. (1780) The State of Prisons in England and Wales. London: Cadell and Conant.
- IVES, G. (1914) History of Penal Methods. London: Stanley-Paul. 1-57. 97-170.

- JANSEN, G. (1969) Crime doesn't Pay: Correlates of a Shared Misunderstanding. Social Problems, 17, 189-201.
- JAYEWARDENE, C.H.S. (1965) Retribution and Reformation in prisons in Ceylon. Probation and Child Care Journal, 4, 6-12.
- JAYEWARDENE, C.H.S. (1975) The Canadian Experiment with The Penalty of Death. Ottawa: Dept. of Criminology, University of Ottawa. 128-143.
- JEUDWINE, J.W. (1917) Tort. Crime and Police in Medieval Britain. London: Stevens. 155-156.
- JOHNSON, E.H. (1957) Selective Factors in Capital Punishment. Social Forces, 36, 165-169.
- KERLINGER, F. N. (1973) Foundations of Behavioural Research. Toronto: Holt, Rinehart and Winston. 117-131, 410-423.
- KINSEY, A.C. (1965) Sexual Behaviour in the Human Male. Philadelphia. Martin.
- KLEINIG, J. (1973) Punishment and Desert. The Hague: Martinus Nijhoff.
- KOESTLER, A. and CAMUS, A. (1969) Reflexions sur la peine capitale. Paris: Calman-Levy. 19-65.
- KORN, R. and McCORKLE L.W. (1959) Criminology and Penology. Toronto: Holt, Rinehart and Winston.
- LASAGNA, L. and vonFELSINGER, J.M. (1954) The Volunteer subject in research. Science, 120, 359-361.
- LAW REFORM COMMISSION OF CANADA (1974) The Principles of Sentencing and Dispositions Working Paper No. 3.
- LAWES, L.E. (1940) Meet the Murderer, New York: Harcourt. 178-179.
- LEE, W.L.M. (1971) A History of Police in England. New Jersey: Patterson-Smith. 1-20.
- LEIPOLD, W.D. and JAMES, R. L. (1962) Characteristics of shows and non-shows in a psychological experiment. Psychological Reports, 11, 171-174.
- LEVY, S.G. (1968) Inferential Statistics in the Behavioural Sciences. Toronto: Holt, Rinehart and Winston. 161-173.

- LUNDBERG, G.A. (1953) Social Research, a study in methods of gathering data. Toronto: Longmans. 182-209.
- MANITOBA SUPREME COURT (1972) Reports.
- MARTIN, R. M. and Marcuse, F. L. (1958) Characteristics of volunteers and non-volunteers in psychological experimentation. Journal of Consulting Psychology, 22, 475-479.
- MARTIN'S ANNUAL CRIMINAL CODE OF CANADA (1974).
- MATTICK, H.W. (1966) The Unexamined Death. Chicago: John Howard Association.
- McCAFFERTY, J.A. (1961) Major Trends in the Use of Capital Punishment. Federal Probation. 25, 15-21.
- McDONALD, J. C. (1967) Why prisoners volunteer to be experimental subjects. Journal of the American Medical Association. 202, 175-176.
- McNEMAR, Q. (1946) Opinion-attitude methodology. Psychological Bulletin 43, 289-374.
- MENDENHALL, W. LYMAN, O and LARSON, R. (1974) Statistics: A Tool for the Social Sciences. North Scituate: Mass.
- MENNINGER, K. (1971) The Crime of Punishment, in S.E. Grupp, Theories of Punishment. Bloomington, Indiana: Indiana University Press. 243-254.
- MICHAEL, J. and WECHSLER, H. (1940) Criminal Law and its Administration. Brooklyn: Foundation Press.
- MOBERLY, W. Sir (1913) Expiation, in R. Gerger and P. McAnany, Contemporary Punishment: Views, Explanations and Justifications. London: University of Notre Dame Press. 73-82.
- MORRIS, H. (1968) Persons and Punishment, in S. Grupp, Theories of Punishment. Bloomington, Indiana: Indiana University Press. 76-100.
- MORRIS, H. (1961) Freedom and Responsibility. Stanford: Stanford Univ. Press.
- MOSER, C. A. and KALTON, G. (1971) Survey Methods in Social Investigation. Glasgow: Machehose. 256-301.

- MURPHY, J. G. (1973) Punishment and Rehabilitation. Belmont, California: Wadsworth.
- NEWMAN, D. J. (1957) Public Attitudes Toward a Form of White Collar Crime, Social Problems, 4, 228-232.
- NEWMAN, M. (1957) Personality differences between volunteers and non-volunteers for psychological investigations: self-actualization of volunteers and non-volunteers for research in personality and perception. Dissertation Abstracts, 17, 684.
- OTTAWA CITIZEN, Oct. 24, 1973.
- PACKER, H. (1968) The Limits of the Criminal Sanctions. Stanford: Stanford Univ. Press.
- PARKENHAM, F. (1961) The Idea of Punishment. London: Chapman.
- PARTEN, M. (1950) Surveys, Polls and Samples. New York: Harper and Row.
- PATRICK, C. H. (1965) The Status of Capital Punishment: A World Perspective. Journal of Criminal Law, Criminology and Police Science, 56, 397-411.
- PIERIS, P. E. (1950) Sinhala and the Patriots. Colombo: Apothecaries. 561.
- PIKE, L. O. (1968) A History of Crime in England. New Jersey: Patterson Smith.
- PINCOFFS, E. (1966) The Rationale of Legal Punishment. New York: Humanities.
- PODGORECKI, A. (1966) The Prestige of the law; preliminary research results. Acta Sociologica, 10, 81-94.
- PORTERFIELD, A. L. (1973) The "We-They" Fallacy in thinking about Delinquents and Criminals, in W. H. Lyle Behavioural Science and Modern Penology. A Book of Readings. Springfield, Illinois: Thomas. 133-140.
- QUINTON, A. M. (1956) On Punishment, in P. Laslett, Philosophy, Politics, and Society, Oxford: Blackwell, 83-91.
- RADCLIFFE-BROWN, A. (1922) The Andaman Islanders. Cambridge: The University Press.

- RADZINOWICZ, L. and TURNER, J. (1948) The Modern Approach to Criminal Law.
Lodnon: Macmillan.
- RAWLS, J. (1971) A Theory of Justice. Cambridge: Belknap.
- REUSCHE, G. and KIRCHHEIMER, O. (1968) Punishment and Social Structure.
New York: Russell.
- RIST, R. C. et al (1973) Public Perceptions of Sexual Deviance: A Study
of the Interrelations of Knowledge and Values. mimeographed,
Portland State Univ. Center for Sociological Research.
- RONNEY, E. A. and GIBBONS, D. C. (1966) Social Reactions to Crimes without
Victims. Social Problems, 13, 400-410.
- ROSE, A. M. and PRELL, E. (1955) Does the Punishment fit the Crime, a
study in Social Valuation. American Journal of Sociology, 61,
247-259.
- ROSEN, E. (1951) Differences between volunteers and non-volunteers for
psychological studies. Journal of Applied Psychology, 35, 185-193.
- ROSENTHAL, R. and ROSNOW, R. L. (1969) Artifact in Behavioral Research.
New York: Academic Press. 59-112.
- SAVITZ, L. (1958) A study in Capital Punishment. Journal of Criminal
Law. Criminology and Police Science, 49, 338-341.
- SCHUBERT, D.S.P. (1960) Volunteering as Arousal Seeking. American
Psychologist, 15, 413.
- SCHUR, E.M. (1965) Crimes Without Victims. Englewood-Cliffs, New Jersey:
Prentice-Hall. 169.
- SELLIN, T. (1967) Capital Punishment. New York: Harper and Row.
- SHOHAM, S. (1966) Crime and Social Deviation. Chicago: Regnery. 128-158.
- SILVERT, K. H. (1965) American academic ethics and social research abroad:
The Lesson of Project Camelot, in H. Kelman (1968) A Time to
Speak on Human Values and Social Research. San Francisco:
Jossey-Boss. 74-81.
- SMART, R. G. (1966) Subject selection bias in psychological research.
Canadian Psychologist, 7a, 115-121.
- STEPHAN, F.F. and McCARTHY, P. J. (1958) Sampling Opinions: An Analysis
of Survey Procedure. New York: Wiley. 384-401.

- SUTHERLAND, E. H. and CRESSEY, D. R. (1970) Criminology. Toronto: Lippincott. 295-319.
- TAFT, D. R. (1956) Criminology. New York: Mcmillan. 349-374.
- TAPPAN, P. W. (1960) Crime, Justice and Corrections. Toronto: McGraw-Hill. 237-272.
- TAPPAN, P. W. (1951) Contemporary Correction. New York: McGraw-Hill, 3-15.
- TARDE, G. (1912) Penal Philosophy. Boston: Little.
- TEEVAN, J. Jr. (1969) Deterrent Effects of Punishment: The Canadian Case, in C. Boydell and C. Grindstaff, Deviant Behaviour and Societal Reaction. Toronto: Holt-Rhinehart. 153-164.
- TOBY, J. (1964) Is Punishment Necessary? Journal of Criminal Law, Criminology, and Police Science, 55, 332-337.
- TUTTLE, E. O. (1961) The Crusade Against Capital Punishment in Great Britain. London: Stevens.
- VICKERS, K. H. (1950) England in the Later Middle Ages. London: Methuen. 108-208.
- VIDMAR, N. and CRINKLAW, L. (1973) Retribution and utility as motives in sanctioning behaviour, in E. Fattah (1975) The Canadian Public and the Death Penalty: A Study of a Social Attitude. Simon Fraser University, Burnaby, B. C. 63-72.
- VIDMAR, N. and ELLSWORTH, P. (1974) Public Opinion and the Death Penalty. Stanford Law Review, 26, 1245-1270.
- WALKER, N. (1966) Varieties of Retributivism, in R. Gerber and P. McAnany, Contemporary Punishment: Views, Explanations and Justifications London: Univ. of Notre Dame Press. 83-92.
- WALKER, P. N. (1972) Punishment an illustrated history. Newton, Abbot: David. 1-153.
- WALLIN, P. (1949) Volunteer subjects as a source of sampling bias. American Journal of Sociology, 54, 539-544.
- WEEKEND MAGAZINE (1974) No. 30.
- WEIHOFFEN, H. (1957) The Urge to Punish; new approaches to the problem of mental irresponsibility for crime. New York: Farrar.
- WEISSMAN, L. (1972) Personality Factors in Prison Volunteers Related to Response in Clinical Drug Trials. Journal of Clinical Pharmacology, 12, 5-9, 95-100.
- WISLER, C. (1922) The American Indian. New York: Univ. Press. 189-192.

WORLD BOOK ENCYCLOPEDIA (1964) 14, 12-13.

YOUNG, E. F. (1966) Scientific social surveys and research. Englewood-Cliffs, New Jersey: Prentice-Hall.

ZEISEL, H. (1968) Some Data on Juror Attitudes Toward Capital Punishment. Chicago: Univ. of Chicago Center for Studies in Criminal Justice. 12-15.

ZILBOORG, G. (1968) The Psychology of the Criminal Act and Punishment. New York: Greenwood. 69-108.

ZIMRING, F. E. and HAWKINS, G. J. (1973) Deterrence, The Legal Threat in Crime Control. Chicago: The Univ. of Chicago Press.

ZWEIG, F. (1948) Labour, life and poverty. London: Gollancz.

APPENDIX

INSTRUCTIONS

1. A set of facts are given describing a case or a situation.
2. Different penalties are available for the situation described.
3. For each case you are asked to indicate the penalty which YOU would give. The choice is to be made by you alone.
4. Choose three penalties for each case described.
 - (A) MAXIMUM PENALTY 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
 - (B) MINIMUM PENALTY 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
 - (C) MOST FREQUENT PENALTY 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
5. Choose the penalties by encircling the appropriate number representing the penalty.

Example

1. A female person provides sexual intercourse in return for money.
 - (A) MAXIMUM PENALTY 1 2 3 4 5 6 (7) 8
9 10 11 12 13 14 15
 - (B) MINIMUM PENALTY (1) 2 3 4 5 6 7 8
9 10 11 12 13 14 15
 - (C) MOST FREQUENT PENALTY 1 (2) 3 4 5
6 7 8 9 10 11 12 13 14 15

* Indicates the respective penalties selected for the example.

Penalties Available

- *1. No penalty
- *2. A fine
3. Probation
4. One year suspension of drivers license.
5. Car taken away for one year.
6. A six months stay as an observer at the emergency ward of a designated hospital. This to be served every second Friday and Saturday between the hours of 6:00 p.m. and 12:00 p.m.
- *7. Thirty days or less in jail.
8. Thirty-one days to six months in jail.
9. Six months to one year in jail.
10. One year to two years in jail.
11. Two years to five years in jail.
12. Five years to ten years in jail.
13. Ten years or more in jail.
14. Life in jail.
15. Execution.

1. A person operates a gambling house
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

2. When the neighbour refused to discontinue trespassing on John's lawn, John punched him in the face.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

3. Upon returning home, a man finds his wife in bed with his best friend. Immediately he takes the hunting rifle which was hanging on the wall and kills them both.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

4. A person walks out of a department store carrying six leather coats without having paid for them.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

5. After a lengthy argument, a person sets fire to his neighbour's garage.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

6. A person has an opened bottle of whisky on the front seat of his car.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

7. Two male persons are engaging in sexual activities in a public park at night.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

8. A person takes the neighbour's car to go shopping. No permission was given for the use of the car.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

9. A male person was in the process of having sexual intercourse with a female person without her consent when interrupted by a police officer
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

10. A person was found to have in his possession a quantity of heroin with an estimated street value of \$100,000.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

11. A person is found to have in the glove-compartment of his car a switch-blade knife.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-
12. A person is found to be driving a car at a time when his license to drive was suspended.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-
13. A male person has indecently assaulted a female person.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-
14. A person has in his home two colour televisions which he knows to have been stolen.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-
15. A person enters a private home and removes a quantity of valuable jewelry.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

16. One of the conditions of a persons parole is that he not associate with known criminals. On one occasion, this person was seen in the company of a prominent underworld figure.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

17. A female person provides sexual intercourse in return for money.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

18. A person has committed many violent acts. On separate occasions, he killed five people.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

19. John left home about six o'clock one evening and proceed to a rendezvous with several friends at a nearby hotel. He remained there for several hours during which time he consumed a considerable amount of alcohol. He left the hotel and drove home. He later learned that he had struck and killed an eight year old boy.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

20. John, while threatening the owner of a grocery store with a knife forces him to hand over the days receipts.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

21. A group of teen-agers stood outside a locked automobile and made threatening gestures to the driver.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

22. John takes a watch from a display counter and leaves the store without having paid for it.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

23. As a result of excessive drinking, a person began shouting obscene language in a public place.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

24. While attempting to escape from custody, a prisoner hits a prison guard over the head and kills him.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY . 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

25. A male person forces a female person to engage in sexual intercourse.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

26. A person is found to be carrying in his pockets a pair of brass knuckles.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

27. A person drives a car at 70 mph. in the downtown district of the city.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

28. A person is found sleeping in his car by a police officer. The officer escorts the person to the police station. Subsequently the person is found to have in his system an alcoholic content higher than .08%
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

29. A father has sexual intercourse with his daughter.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

30. A person by pointing a gun at one of the stewardesses, forces the captain of the airliner to change his flight plan.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

31. A person takes a car for the purpose of going for a ride. The car does not belong to him.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

32. A person is travelling with a passport which he knows is false.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

33. A doctor performs an abortion at the request of the female person involved.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

34. A person while driving home from a party is found to be impaired by alcohol.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

35. A person pointed a gun at the bank teller's head forcing her to hand over a large sum of money.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

36. A person takes a car from a parking lot. The car is not his.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

37. A police officer while attempting to apprehend a suspect, is shot and killed by the suspect.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

38. John, knowing that the gun is not loaded points it at a stranger. The stranger does not know that the gun is not loaded.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

39. A person while driving a car strikes a pedestrian. The driver realizing what had happened continues on his way.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

40. A person performs abortions for a fee.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

41. After being expelled from school, John returned and started a large fire causing extensive damage.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

42. A man is paid \$10,000, to kill another person. He completes the job.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

43. The wife of a wealthy person is taken forcibly from her home by two persons and held for ransom by them.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

44. A female person is held to the ground by four men. Subsequently they each had sexual intercourse with her.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

45. John knowing that the rifle was loaded points it at a stranger.
- (A) MAXIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (B) MINIMUM PENALTY 1 2 3 4 5 6 7
8 9 10 11 12 13 14 15
- (C) MOST FREQUENT PENALTY 1 2 3 4
5 6 7 8 9 10 11 12 13 14 15
-

