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## PUNISHMENT SELECTION AS A FUNCTION OF BIOGRAPHICAL INFORMATION

DOUGLAS W. KNIGHT\*

Scores of unchallenged books and articles attest to the emphatic social scientific and psychological persuasion that the public's ancient willingness to punish its criminals reflects quite more than an engineering approach to the social defense. Emotional need and latent social function are unquestionably served by the intricately systematized formal and symbolic ostracism of the offender. But how rigid is the punitive reaction?

Weihofen has asserted that rational understanding of others' behavior promotes objectivity:

... If we will come to understand the motivations that lie behind the way human beings behave—wrongdoer and righteous both—we shall be increasingly able to supplant an emotionally charged, moralizing approach to the problem of crime with a more scientific emphasis on social dangerousness, deterrability and treatability.<sup>1</sup>

Alexander and Staub years ago stressed that not until the community's subterranean demand to punish is made public—not until the community knows itself—can it embark on a rational scheme of criminal justice. Appreciating the offender's situation, they have insisted, is a necessary but not sufficient precursor to a scientific response to him:

We may be very exact and go very deeply into the study of the personality of the criminal; we may use psychoanalysis to discover the psychogenesis of a given crime, yet the treatment of the criminal in the light of, and with the consideration of, his unconscious motivations will be met with a number of great resistances, unless this treatment remains at the same time in accordance with the general affective demand for atonement and reparation. Scientific insight will sooner be thrown overboard than the gratification of an emotional drive.<sup>2</sup>

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<sup>1</sup> WEIHOFFEN, *THE URGE TO PUNISH* 146 (1956).

<sup>2</sup> ALEXANDER & STAUB, *THE CRIMINAL, THE JUDGE, AND THE PUBLIC* 212 (1956).

However, the fact is that as students of criminology have inclined to focus on crime itself, the enormous variety of responses to it has not been subject to systematic study. There is available very little empirical evidence of the extent to which the "urge to punish" is amenable to modification.

The pilot investigation reported here questioned whether respondents' knowing about the background—that is, life history—of a criminal would lead to a decrease in the severity with which they would want to punish him. Specifically, the question was asked whether individuals who are "forced" to consider biographical antecedents of a criminal act (even if such consideration is superficial) would hypothetically punish the agent of behavior to a significantly lesser degree than would individuals perusing only the action of the behavior, the crime.

In order to answer this exploratory question, a post-test-only control group experimental design was employed. A two-form schedule was devised and a different form administered to each randomized one-half of a random sample ( $N = 80$ ) of the public population of a small California community. Polled individually, the control subjects responded to the Criminal Act form, the experimental subjects to the Criminal Act-Biography form. Both forms called for the respondent to decide the just penalty (punishment) for ten described crimes. On both forms the same ten hypothetical crimes were described, and the same multiple-choice punishment possibilities were listed. The punishment scale, ranging from "No Punishment" to "Death," was comprised of eleven approximately equal interval categories of partially indeterminate "sentences" (as, "2-5 yrs.").

However, the difference between the forms, the experimental variable, occurred in the extent of information provided about each criminal. For each hypothetical crime, a three-quarter-page presentation of the facts relative to the commission of the act was made available to the control group, with data about the actor's past excluded. The experimental respondents were introduced to a page (per crime) of slightly less detailed information about the act but which included about two paragraphs

of implicit etiological information (which varied from crime to crime). Essentially, then, control group respondents judged criminal *acts* only, while experimental group respondents evaluated combined *act-biography* information.

For example, the control group act evaluators were given the following information about the embezzlement offense:

Arthur Allen, 35, was the rental manager of a large equipment rental and supply company. The company did heavy business with farmers and ranchers, renting them farm machinery. Allen, because of his trusted position, was able to cheat the company out of nearly \$8,000 in 3 years.

Not closely supervised, Allen would sometimes rent expensive machinery without entering the transaction on company records. Using his own contracts, he could keep the customer's money, and later audits would not show that a rental had been made. However, a chance comparison of rental records with post-rental maintenance records revealed a discrepancy. Old records were reviewed, the \$8,000 embezzlement was discovered, and Allen was arrested.

By contrast, the experimental group act-biography evaluators were furnished the following information about the same case:

Arthur Allen grew up in a "well-to-do" family of good social standing. However, the father, the 2 sisters, and the boy—all intelligent—were dominated by the mother. Even before his teens Allen showed the same submissive traits his father did, and like his mother, had come to expect everything to revolve around his own desires. He expected much praise and reward. His mother often argued on his behalf at school, sometimes insisting that the boy be given special considerations. She once had one of his B grades changed to an A and boasted to the family of this. She was proud, too, of her ability to evade a certain amount of income tax and "get away with it".

By age 35, Arthur Allen, married with 2 children, had worked up to the position of rental manager of a large equipment company. Still not able to live as luxuriously as he once had, he began renting some farm equipment on his own contracts, keeping the customers' money, and not recording the transactions.

PUNISHMENT SCORE DATA FOR INDIVIDUAL CRIMES

Crime	Mean Score, Act Evaluators	Mean Score, Act-Biography Evaluators	t
Check forgery.....	4.05	2.98	4.57**
Grand theft, auto.....	3.63	4.75	2.85**
Indecent exposure.....	3.75	2.58	2.37*
Assault with deadly weapon.....	3.63	4.25	2.14*
Embezzlement.....	4.20	3.60	1.97*
Sale of narcotics.....	6.38	5.30	1.84
Forcible rape.....	6.20	5.40	1.77
Armed robbery.....	4.75	4.35	1.45
First degree murder.....	7.88	7.53	0.65
Burglary.....	3.75	3.63	0.46

A t-ratio of 1.96+ is required for  $p < .05$ ; 2.58+ for  $p < .01$ .

\*\* Significant at the .01 level.

\* Significant at the .05 level.

He embezzled \$8,000 in 3 years before a record discrepancy led to his arrest.

Although the external validity of the findings is open to question, the ten crimes (see the accompanying table) and ten condensed biographies were designed to be reasonably varied and representative within the limits circumscribed by the short schedule. The scope and magnitude of difference between the Criminal Act form and the Criminal Act-Biography form were held as constant as possible for all hypothetical crimes.

For the purpose of gauging punishment severity differences between the two groups, each penalty choice was assigned a number value corresponding to its rank on the eleven-point punishment scale. (A "No Punishment" choice, for example, was worth 1, whereas a "Death" selection was worth 11.) When a respondent's ten judgments were converted into their numerical values, his total score could thereby be obtained.

A comparison of the mean score of the control group (48.00) with the mean score of the experimental group (42.28) revealed that the severity of punishment had decreased to a highly significant extent ( $t = 2.68, p < .01$ ) concomitant with biographical information about the offenders.

The table depicts the comparative mean penalty scores for each of the ten judged crimes. From this breakdown it is evident that although the experimental group mean scores were lower (signifying less harsh penalty choices) for eight of the ten

judgments, these differences were significant ( $p < .05$ ) in but three instances. However, the trend is distinct; for six of the eight crimes for which experimental raters' scores were found to be lower, the derived t-scores were at least moderately high.

The only crimes punished more severely by those respondents evaluating biographical information were grand theft, automobile and assault with a deadly weapon. These differences were significant and thus plainly extraordinary in view of the modal tendency for knowledge of the criminals' pasts to accompany a reduction in punishment. The combined crimes mean punishment score difference would have been even greater, of course, had these two offenses been excluded from judgment. The investigator would offer that the deviant tendency for respondents to judge the automobile thief and the assaulter more punitively as they knew more about them might suggest that the experimental group conceived of the acts as characteristic of the actors, whereas, when examined without benefit of knowledge about the offender, these crimes bore the mark of situational precipitation.<sup>3</sup>

Despite, then, the observation that ascribed punishments tend to become less severe in association with judges' learning about the criminals' pasts, there were variations which are indicative of the importance to the study of the kinds of biographical material and crimes employed. In this regard, an examination may be made of the *ordering* of the crimes according to the severity with which they were punished by each group. Tenta-

<sup>3</sup> Conceivably, control respondents perceived that the thief had merely "... wandered around until finding a late model car," while biographical data disclosed his characteristic instability. Similarly, control respondents knew only that the assaulter had become involved in a fight and that when he "... was knocked down, he pulled a knife. . . ."

tively adopting the Sellin-Wolfgang scale of crime seriousness as a "normative" index,<sup>4</sup> we may take rough note of the variable impact of the specific biographical information provided to the experimental group: the rank order correlation between inferred act evaluators' rankings and the same offenses ordered according to Sellin-Wolfgang weightings is .89, while inferred act-biography evaluators' rankings correlated only .58 with the Sellin-Wolfgang standardized rankings.<sup>5</sup>

Although these classes of variables thwart generalizability, there can be no doubt that, under the relatively uncomplex conditions specified, "punitive justice" was readily manipulated. Further inquiry should aim at ferreting out the more subtle variables which influence this species of sanctioned aggression. The results of this small exploratory experiment suggest that our ability to perceive the link between a criminal's present and past may have notable bearing on our attitude toward him. The "urge to punish" notwithstanding, related research may yield strategies for constructive attitude change in "non-professional" correctional workers, as well as provide techniques of public education essential to the promotion of specific correctional programs.

<sup>4</sup> See SELLIN & WOLFGANG, *THE MEASUREMENT OF DELINQUENCY*, (1964). The authors' scale is a rigorously evolved but manageable index sufficiently refined as to permit a weighting of the components and aggravating factors of each offense in a range of criminal acts. Although derived from a study of a Philadelphia sample, the scale has a hopefully wider validity. "It is doubtful," the authors have suggested, "... that regional variations in the United States would significantly alter the proposed index or the relative scale values." *Ibid.* 332.

<sup>5</sup> Two of the crimes—indecent exposure and sale of narcotics—could not be treated by the Sellin-Wolfgang scoring system and were thus excluded from the correlations.