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## RESEARCH NOTES

### PUBLIC OPINION TOWARD LEGAL SANCTIONS FOR CRIMES OF VIOLENCE

CRAIG L. BOYDELL\* AND CARL F. GRINDSTAFF\*\*

#### *Introduction*

Those arguing both for and against changes in the legal code often make reference to public sentiment to support their position. While such appeals are certainly in keeping with the importance assigned to public opinion in democratic societies, one rarely sees a concrete demonstration that public opinion has actually been tapped.

Understanding public sentiment in the area of legal sanctions is important for several reasons. First, in a democratic society, the criminal law should in some way mirror the attitudes of the general populace, that is, there should be some affinity between societal values and legal actions. As Gibbons states:

The penalties currently directed at criminals must in some way reflect public attitudes regarding crime and punishment. Sociologists frequently go about asserting that certain crimes are "in the mores" and so, it is argued, they are widely condemned by members of the general public. Similarly, it is contended that certain crimes . . . receive a tolerant response from the public. According to this view, the laws concerning the latter kinds of lawbreaking are out of tune with public sentiments. In short, this perspective maintains that variations in punitive sanctions mirror public sentiments.<sup>1</sup>

This discussion, however, is largely academic. Although from a policy standpoint it may be important to understand public attitudes toward legal sanctions, the fact is that there is very little information about how the public views criminal penalties. It is the primary purpose of this study to furnish some data to help fill this void by analyzing data on public attitudes concerning appropriate penalties for persons convicted of violent crimes.

The research for this study was conducted in

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<sup>1</sup> Gibbons, *Crime and Punishment: A Study in Social Attitudes*, 47 *SOCIAL FORCES* 391 (1969).

London, Ontario, during the summer and fall of 1970. London has a large and diverse population, and is considered "typically Canadian," a fact attested to by the large number of merchandising experiments conducted in the city. As Dhalla writes, "It [London] is a fairly typical community, representing to some extent in microcosm the urban life in English Canada."<sup>2</sup> Although it would be necessary to draw a sample from the Canadian population as a whole in order to generalize the findings of this study, the data gathered in London may, more than data from any other single area, have the greatest applicability to the population as a whole.<sup>3</sup>

#### *Findings*

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. In an attempt to circumvent this problem to some degree, we asked the respondents to choose three penalties, rather than one, for each of the crimes in the questionnaire. First, the respondents were asked to indicate the sanction that they thought should be applied most frequently for the stated offense. In addition, we asked that they indicate both the minimum and maximum penalty that, in their opinion, should be assigned for that same offense.

By using the latter two alternatives, we attempted to take into account the possible variations that do in fact often affect the severity of

<sup>2</sup> N. DHALLA, *THESE CANADIANS* 398 (1966).

<sup>3</sup> For a complete discussion of the methodology and sampling of the total study, see Boydell & Grindstaff, *Public Opinion and the Criminal Law: An Empirical Test of Public Attitudes Toward Legal Sanctions*, in *DEVIANANT BEHAVIOR AND SOCIETAL REACTION* (C. Boydell, C. Grindstaff & P. Whitehead eds. 1972); Boydell & Grindstaff, *Public Attitudes Toward Legal Sanctions: A Pilot Study*, in *SOCIAL PROCESS AND SOCIAL INSTITUTIONS* (Gallagher & Lambert eds. 1971); Boydell & Grindstaff, *Public Attitudes Toward Legal Sanctions for Drug Use and Abortions*, 13 *CAN. J. CRIM. & CORR.* 209 (1971).

TABLE 1  
PERCENTAGE DISTRIBUTION OF PENALTIES ASSIGNED FOR VIOLENT CRIMES (N = 451)

	No Pen- alty	A Fine	Pro- ba- tion	30 days or less	31 days to 6 months	6 months to 2 years	2 years to 6 years	5 years to 15 years	15 years or more	Edu- ca- tion	No Re- sponse
1. Murder (Law Enforcement Officer)											
Most Frequent	—	—	—	—	—	4	8	14	31	36	7
Minimum	—	—	—	—	1	5	11	19	34	21	9
Maximum	—	—	—	—	—	—	2	5	19	70	4
2. Murder (Citizen)											
Most Frequent	—	—	—	—	1	4	9	26	36	19	5
Minimum	—	—	1	1	1	6	14	28	29	13	6
Maximum	—	—	—	—	—	—	3	6	36	51	5
3. Manslaughter											
Most Frequent	1	—	2	1	1	9	24	30	19	6	7
Minimum	2	—	6	1	3	18	26	23	13	4	4
Maximum	—	—	—	—	1	3	8	21	39	22	6
4. Rape											
Most Frequent	1	1	2	4	8	21	27	20	8	1	7
Minimum	1	1	7	6	13	26	20	16	4	—	6
Maximum	1	—	1	1	3	8	20	27	29	5	5
5. Attempted Rape											
Most Frequent	1	2	4	4	12	24	26	16	6	1	4
Minimum	3	2	11	6	16	24	20	8	4	—	6
Maximum	—	—	1	1	4	12	25	25	24	3	5
6. Kidnapping											
Most Frequent	—	1	—	1	2	10	25	35	19	2	5
Minimum	1	1	2	1	8	19	27	22	13	1	5
Maximum	—	—	—	—	—	3	8	24	53	9	3
7. Robbery											
Most Frequent	—	2	1	3	12	28	32	15	2	—	5
Minimum	1	2	4	10	18	32	22	5	2	—	4
Maximum	—	1	—	—	2	10	24	37	21	1	4
8. Assault											
Most Frequent	1	15	6	17	19	21	11	4	2	—	4
Minimum	4	15	19	17	16	14	7	2	1	—	5
Maximum	—	2	2	7	12	25	25	13	9	1	4

assigned sanctions. The respondent was asked, in effect, to consider the offense not as a single universally typed act, but as a category of an offense that may assume a wide range of variation.<sup>4</sup>

We chose to send our questionnaire to the heads of households. This was the most convenient method, since we could obtain an up-to-date directory which listed all households by household head. In addition, for comparative purposes, we were able to obtain from the census demographic characteristics of household heads for the total

<sup>4</sup> The importance of the use of "minimum," "maximum" and "most frequent" response categories is discussed in detail in Boydell & Grindstaff, *Public Opinion and the Criminal Law*, *supra* note 4.

London population. Using variables such as age, sex, religion, place of birth and marital status, we were able to compare our sample with the total London population and determine that there were no statistically significant differences between the London population as a whole and our return sample.<sup>5</sup>

Table 1 shows the percentage distribution of responses for the eight violent crimes against persons under investigation in this paper.

*Murder (law enforcement officer):* The most frequent penalties assigned by the respondents in this category range from six months in prison

<sup>5</sup> *Id.*

(4 per cent) to execution. Nearly 70 per cent feel that the penalty they would most often assign is either fifteen years or more in prison, or execution. As the minimum penalty, one person in five (21 per cent) favors execution for anyone who kills a law enforcement officer. As a maximum penalty, 70 per cent of the respondents feel that execution is the appropriate sentence. This murder category is viewed as the most serious crime included in this study.<sup>6</sup>

*Murder (private citizen):* Although the relationship between most frequent, minimum and maximum penalties are the same here as for the murder of a law enforcement officer, the penalties are not as severe. In the minds of respondents, it makes a difference who is killed. Less than 20 per cent assign execution as a most frequent or as a minimum penalty. A prison sentence of more than five years is the general response for these categories. The maximum penalty assigned most frequently is execution (51 per cent), but this is a lower figure than the one assigned for the former category.

*Manslaughter:* This is treated less severely than murder. There are wide discrepancies between minimum and maximum sentences for this crime, indicating that the situation and circumstances are important in evaluating this offense. As a most frequent penalty, 3 per cent do not assign a prison sentence and 6 per cent prescribe execution. Five to fifteen years in prison is the modal response. Four per cent see execution as the most appropriate minimum penalty, and 8 per cent do not assign a prison sentence. The modal category here is two to five years in prison. One person in five thinks the maximum penalty should be execution, and all respondents assign some type of prison term. The largest single category is fifteen years or more in prison.

The law allows execution only in the instance of the murder of on-duty police officers or prison guards. Thus, there is a relatively large proportion of the population that disagree with the current legal code in this regard. Many see execution as an appropriate penalty for other types of murder, as well as for other personal crimes.

*Rape (and attempted rape):* Although rape was formerly a crime legally punishable by execution, this is no longer the case. The public seems to agree with this legislative decision. The most

frequent modal penalty assigned to rape is two to five years in jail (27 per cent). However, there is a wide range of distribution, there being a 20 per cent response in each of three separate penalty categories, ranging from six months to fifteen years in prison. This is also true for maximum penalties, although the modal penalty is fifteen years or more in prison. Nine per cent express the attitude that the minimum penalty should not involve institutionalization, while none sees execution as a minimum penalty for rape. It is interesting to note that there is relatively little difference between the assignment of penalties to rape and to attempted (unsuccessful) rape. It appears that motive is the paramount consideration, not the accomplishment of the act. As with rape, the most frequent modal penalty assigned is two to five years in prison. The minimum and maximum penalties assigned to attempted rape generally follow the same patterns as those assigned for rape. Although attempted rape is not viewed as severely as rape in terms of penalties assigned, the differences are small and insignificant.

*Kidnapping:* The respondents view kidnapping as a more serious crime than rape. Over half of the most frequent penalty responses assign more than a five year jail sentence.<sup>7</sup> A majority of the minimum penalties assigned are for more than two years in prison (63 per cent). The maximum penalties assigned are severe, with over 50 per cent prescribing fifteen years or more in prison, and 9 per cent indicating execution as appropriate. The severity of these sentences approaches that given for second degree murder. In general, other than murder, kidnapping is viewed as the most severe personal crime, and the maximum penalties are quite harsh.

*Robbery and assault:* Robbery is penalized more severely than assault. Again, the motive for the violence appears to be an important factor in the sentencing. Robbery resembles attempted rape in terms of penalties assigned. Sixty per cent of the most frequent penalties are from six months to five years in jail. The minimum penalties are much the same as the most frequent ones. However, the maximum penalties for robbery are relatively severe. Nearly 60 per cent of the respondents assign more than a five year prison sentence as a penalty. This compares to 17 per cent and 7 per cent for the most frequent and minimum

<sup>6</sup> The distinction between capital and non-capital murder in Canada is based on the fact that the criminal code presently allows for execution only in the instance of the murder of on-duty police and prison guards.

<sup>7</sup> It should be noted that the questionnaire was returned just prior to the 1970 F.L.Q. kidnappings in Quebec.

categories respectively. This is one of the widest discrepancies between groups of categories, which indicates that the specific nature of the robbery tends to be an important consideration, especially in the assignment of maximum penalties. The public attitude toward assault is more lenient. Over 20 per cent assign no jail penalty at all as the most frequent response. This figure for minimum penalty is nearly 40 per cent. In fact, probation is the modal minimum category. Fifty per cent of the maximum penalties range from six months to five years in jail. In terms of penalties assigned, assault is the least serious of the personal crimes considered here.

While the data presented thus far provide a general picture of public sentiment, they do not offer insight into the attitudinal variations that may exist within the population. To examine for such differences we isolated the "most frequent" response category and cross-tabulated the responses according to a number of background characteristics, using chi-square to test for significance of differences. The particular variables controlled were sex, age, income, education, religion and religious attendance. These six socio-demographic characteristics were cross-tabulated with eight crimes of violence. Of the forty-eight relationships investigated, only three (all relating to religion and religious attendance) produced statistically significant differences, and no general trends were discernible.<sup>8</sup>

While the control of background characteristics yields little in terms of statistically significant differences, the findings are nonetheless quite interesting in view of the fact that these same background characteristics have frequently related to differences in public attitudes on other matters. This may result in part from the manner in which self-interest is interpreted in this area. For example, political and economic self-interest will certainly be differentially defined in terms of those measures that will give one social class or group a larger share of the power or economic resources

available. With regard to crime, however, and particularly crimes against the person, it may be that there exists a common denominator such as fear, or perceived threat to one's person, or indignation that obscures the socio-demographic interests that normally are important. In the framework of value consensus and interest group orientations to the criminal law, it might be argued that in some areas such as the protection of private property, or the preservation of valued moral beliefs, different interests do operate and are differentially represented by any existing legal code. However, in the case of major crimes against the person, there is a common interest of self-preservation that creates a societal consensus.

This consensus exists despite the fact that persons belonging to different groups appear to have differential likelihoods of falling victim to such crimes.<sup>9</sup> On the one hand, this may be explainable in terms of the existence of a general moral indignation with regard to such crimes, regardless of whom the victim might be. On the other hand, it may be that given the amount of publicity associated with such crimes,<sup>10</sup> the fear of falling victim, *i.e.*, the *perceived* likelihood, does not vary significantly.

On more of a methodological level, one must be careful not to generalize from a population of household heads to the general population. In particular, persons who are responsible for the well being of others may be more sensitive to issues related to actual or potential criminal violations against the person. Also, if it is correct to assume that household heads are more highly integrated into the prevailing value structure, one might expect them to be more traditionally oriented with regard to their attitudes on legal sanctions. This is, however, largely speculation which awaits further empirical investigation.

<sup>9</sup> PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CRIME AND ITS IMPACT—AN ASSESSMENT 80 (1967).

<sup>10</sup> See T. Seacrest, Press Coverage of Crime—Attitudes Toward Crime, 1972 (unpublished thesis, University of Western Ontario).

<sup>8</sup> Copies of the data analysis tables of these cross-tabulations are available from the authors upon request.