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What is This?

Public preferences for sentencing purposes: What difference does offender age, criminal history and offence type make?

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Abstract
Preferences of 800 randomly selected Australians for retributive and utilitarian sentencing purposes were examined in response to brief crime scenarios where offender age, offence type and offender history were systematically varied. Respondents selected rehabilitation as the most

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important purpose for first-time, young and burglary offenders. Punishment was endorsed as most important for repeat, adult and serious assault offenders. Multinomial logistic regression analysis revealed that offence history was a stronger predictor of public preferences than offender age or offence type; the odds of choosing rehabilitation compared with punishment were significantly increased by a factor of 6.1 for cases involving first-time offenders. It appears that when given specific cases to consider, the public takes an approach akin to that taken by the sentencing courts as they weigh up the importance of the various purposes for the case at hand. Public preferences are thus broadly consistent with current law and sentencing practice.

Like many western democratic jurisdictions, Australia's States and Territories have articulated various purposes of sentencing within legislation. However, there is little research available in Australia on the degree to which these stated purposes are consistent with public expectations of sentencing. It is important to gauge public opinion in this area given that public opinion may influence not only sentencing policy (Frost, 2010; Indermaur, 2008; Roberts, 2008a) but also sentencing decisions (Gleeson, 2004; Mackenzie, 2005). The rapid emergence of sentencing advisory bodies in western nations such as Australia, New Zealand and the United Kingdom demonstrates there is an increasing recognition that the public ought to have input into sentencing policy (Indermaur, 2008; Warner, 2010). This article aims to establish the views of the Australian public[1] with regard to the importance of the purposes currently stated in legislation. In particular, this article seeks to ascertain whether public perceptions of the importance of sentencing purposes vary according to legally relevant offender and offence characteristics.

The principles and purposes outlined in the legislation of each State and Territory of Australia represent an uneasy compromise between two disparate schools of thought in relation to the goals of sentencing (Edney and Bagaric, 2007). These two schools of thought are typically referred to as utilitarian and 'just deserts'. Utilitarian rationales are forward looking or consequentialist in the sense that they look at the preventive consequences of sentencing. Those who hold utilitarian views are concerned with the benefits to be gained from punishment, including incapacitation (for the purposes of protecting the community and preventing further crime), deterrence (general and specific) and rehabilitation as legitimate reasons for punishment. In contrast, just deserts or retributive theory is backward looking. Its proponents advocate punishment that acknowledges past wrongs and that is just and in proportion to the offence committed and the culpability of the offender. Denunciation is typically regarded as a retributivist rationale, although if its purpose is in part educative, then it is forward looking (Edney and Bagaric, 2007; Mackenzie and Stobbs, 2010). This brief overview of the traditional purposes of sentencing over-simplifies the complexity of the debate as, for example, there are many shades and hues of desert theory. Moreover restorative approaches have challenged just deserts theory in particular and social theories of sentencing advocate a different approach (see Ashworth, 2010 for a discussion).

A mix of purposes (incapacitation, deterrence, rehabilitation, denunciation and retribution) is evident in the sentencing legislation of various States/Territories in Australia

(see Edney and Bagaric, 2007; Freiberg, 2010; Mackenzie and Stobbs, 2010). Judicial officers may impose a sentence for any one of, or any combination of, these legislated purposes. These purposes are also typically espoused in other countries such as Canada (Roberts et al., 2007), England and Wales (Ashworth, 2010) and New Zealand (Young and King, 2010) as well as in the legislation of various jurisdictions in the United States (Frase, 2005a, 2005b).

The hybrid or 'pick-and-mix' approach to sentencing purposes has been endorsed by the Australian Law Reform Commission (ALRC, 2006) which has rejected the value of declaring a primary rationale for sentencing and has cautioned that the various purposes of sentencing must be pursued in a manner that does not lose sight of other key principles such as proportionality in sentencing. Contemporary reviews of sentencing functions and frameworks in various jurisdictions in the United Kingdom (Home Office, 2001) and the United States (Frase, 2005a) have also typically recommended a 'hybrid' approach to establishing the goals of sentencing.

Given the prevalence of this hybrid approach, it is worthwhile reviewing the research literature on the public's level of support for the various purposes of sentencing. One noteworthy study sought to determine whether the Canadian public was able to endorse one single purpose of sentencing as being most important (Roberts et al., 2007). Of the 1501 Canadians surveyed, well over a third of respondents endorsed restorative justice principles over and above the more traditional purposes of sentencing as being the most important purpose of sentencing. Of the traditional purposes of sentencing, participants more frequently rated individual deterrence as being most important followed closely by rehabilitation, general deterrence and incapacitation, whereas denunciation was rarely endorsed (Roberts et al., 2007). However, there are difficulties with this method of measuring public preferences in regard to sentencing as there was no specification of offence/ offender variables, such that one cannot know precisely the kind of case that respondents had in mind when stating their preferences. We do know from earlier studies (Doob and Roberts, 1983; Indermaur, 1987) that when left unspecified, members of the public tend to have serious violent crimes in mind when thinking about crime in general.

It is plausible that the preferred purposes of sentencing may relate in some way to salient details of the offence and/or offender. Three offender and offence variables that are legally relevant factors at sentencing are offence type, offender age and criminal history (see, for example, Tufts and Roberts, 2002). The type of offence committed is a particularly important variable to take into consideration at sentencing given that proportionality is an overriding principle in the sentencing process in many countries including Australia. When imposing a proportionate punishment, the nature and severity of the offence is an important consideration. Consistent with this approach, it appears the public is sensitive to considerations of offence seriousness and offence type when determining the relative importance of the various purposes of sentencing. Two studies within the last decade demonstrate this point.

Roberts and colleagues (2009) gauged public support for purposes of sentencing using crime scenarios with a sample of 1023 adults in England and Wales. Respondents were asked to rate the degree of importance on a 10-point scale for each of the five sentencing objectives listed (public protection, preventing crime, punishing offenders, reformation and reparation) in relation to four different crime scenarios. The two offence

types were property crimes and violent crimes and for each of these a minor and serious example was provided. Respondents were more likely to rate each of the five sentencing objectives as being high in importance in response to the serious violent crime compared with the serious property crime example.

Paulin et al. (2003) investigated sentencing preferences in a sample ($N = 1500$) of the New Zealand public. Respondents were asked to select up to three sentencing aims that were most important for a range of crime scenarios that depicted different types of offences. Rehabilitation was rated by approximately one in three respondents as being most important in the scenarios depicting drug possession (39%) and domestic violence (31%). Individual deterrence and retribution were rated as being most important for the examples involving drunk driving (25% and 23% respectively) and smuggling of heroin (20% and 22% respectively). In the case involving aggravated burglary, incapacitation (27%) and retribution (24%) were more frequently endorsed as being most important whereas almost a third of participants (30%) felt that restitution was most important in the case of fraud. Through utilizing a broader range of crime scenarios than Roberts et al. (2009), the New Zealand study revealed a more complex picture with regard to the influence of offence type on preferences for sentencing purposes. Nonetheless, what both studies clearly indicate is that the public considers the type of offence described in each case before weighing up the relative importance of the various purposes of sentencing.

In addition to offence type, the age of the offender is clearly a relevant consideration in the sentencing process in Australia, as it is in many countries. The importance of rehabilitation for young offenders is recognized in common law (Edney and Bagaric, 2007) and is also specified in legislation in a number of States/Territories in Australia (see Mackenzie and Stobbs, 2010). This emphasis on rehabilitation for young offenders is consistent with the approach taken by many other nations such as Canada (Denov, 2004) as well as England and Wales (Ashworth, 2010) and is consonant with article 40 of the United Nations Convention on the Rights of the Child which states that when dealing with young offenders, the criminal justice system must take into consideration the needs of young offenders.

As noted by Roberts (2004), surveys in both the USA and Canada have indicated that the public endorses rehabilitation as a legitimate purpose of sentencing for young offenders. In the United States, findings from the 1995 National Opinion Survey on Crime and Justice indicated that while retribution was clearly rated as most important for adults, retribution and rehabilitation were considered equally most important in the case of young offenders (Flanagan and Longmire, 1996). More recently, it was found that the US public was willing to support rehabilitation over incarceration for young offenders, even in the case of serious crimes such as robbery, if it could be shown that rehabilitation is as effective as incarceration in reducing crime (Piquero and Steinberg, 2010). In Canada, deterrence was clearly rated as most important for adult offenders whereas deterrence followed closely by rehabilitation received the highest ratings of importance for young offenders (see, for example, Doob, 2000). People in Canada were also less likely to support the use of imprisonment as a sanction for young offenders when compared with adult offenders (Tufts and Roberts, 2002).

Research on the opinions of the public in the United Kingdom towards sentencing of young offenders also suggests the public is more likely to support rehabilitation for

young offenders. For example, when Roberts and Hough (2005) asked people in England and Wales through the National Statistics Omnibus Survey to choose a single purpose of sentencing as the most important, rehabilitation was more frequently endorsed as being most important for young offenders compared with adult offenders. However, deterrence and proportionality were more frequently endorsed than rehabilitation as being most important for young offenders.

Based on the studies reviewed, the public's perceived level of importance of rehabilitation for young offenders is unclear and this may be accounted for by methodological differences between studies. A noteworthy difference is that Doob (2000), Flanagan and Longmire (1996) and Roberts and Hough (2005) asked participants directly about the purposes of sentencing whereas the other studies asked participants to choose the appropriate sanction. In the latter case, the actual purpose of the sanction can only be inferred as there may be multiple reasons for choosing a given sanction. Furthermore, Roberts and Hough asked participants to choose the single most important purpose whereas Doob as well as Flanagan and Longmire asked participants to rate the importance of the various purposes of sentencing. Despite these methodological differences, these studies have consistently shown that age has an effect on preferences for the various sentencing purposes.

Offence history is another factor that is routinely taken into consideration during the sentencing process although there are conflicting rationales for doing so and some desert theorists oppose previous convictions counting against a defendant (Edney and Bagaric, 2007; Roberts, 2008b, 2008c). Empirical studies in many jurisdictions have demonstrated that, after offence seriousness, criminal record is more important than other aggravating or mitigating factors at sentencing (Roberts, 2008b). Offence history is prescribed as a relevant factor by sentencing legislation and/or common law in most of the States/Territories in Australia (see Mackenzie and Stobbs, 2010). In Australia, case law has justified the relevance of prior history on utilitarian grounds such as deterrence, incapacitation and rehabilitation, and also on grounds of desert on the basis that antecedent criminal history is relevant to culpability (Mackenzie and Stobbs, 2010).

Despite the importance of prior history in sentencing practice, as Roberts (1996, 2008b) has observed, we know little about the extent to which people support the relevance of offence history as a consideration in sentencing and on what grounds they consider offence history to be relevant. Previous research would suggest that the public is more likely to endorse harsher sentences in instances of repeat offending (e.g. Applegate et al., 1996; Roberts et al., 2009; Tufts and Roberts, 2002) and to support more lenient sentences in the case of first-time offenders (Roberts and Hough, 2011). It has also been found that prior offence history is a major predictor of the severity of sentences recommended by the public in response to hypothetical cases involving crimes ranging from burglary (Russell and Morgan, 2001, cited in Roberts, 2008b) to dangerous or careless driving resulting in the death of another (Hough et al., 2008). However, it is unclear whether the public supports harsher sentences for repeat offenders on the grounds of utilitarian concerns such as incapacitation or on 'just desert' considerations.

Another limitation in this area is that the majority of research has been based on samples from the United Kingdom, Canada or the United States. Research on the views of the Australian public is sparse. The most noteworthy study looking at Australians'

support for various sentencing purposes was conducted by Indermaur in 1990. In this study, Western Australian respondents were asked to indicate the main purposes of sentencing for two different scenarios. The first was a young property offender and the second was an offender convicted of a serious violent offence. For the scenario relating to serious violent crime, incapacitation (37%) and retribution (23%) combined accounted for almost two-thirds of the public's responses. In contrast, over two-thirds of the respondents selected either individual deterrence (43%) or rehabilitation (24%) in the case of the young property offender. There has been little research on this issue since the Indermaur study and no research to date has looked at data on a national level in Australia on the purposes of sentencing.

The purpose of the present study is to fill this gap in the research and explore the relative willingness of the Australian public to endorse the traditional purposes of sentencing through an experimental design in which offender age (young, adult), offence type (burglary, serious assault) and offender history (first-time offender, repeat offender) are systematically varied using brief crime scenarios. Consistent with previous findings (e.g. Indermaur, 1990; Roberts et al., 2009), it is anticipated that frequency ratings for the importance of each of the traditional purposes of sentencing will vary based on offence type. In line with previous findings (Doob, 2000; Flanagan and Longmire, 1996; Piquero and Steinberg, 2010; Roberts and Hough, 2005; Tufts and Roberts, 2002), it is also expected that support for the various purposes of sentencing will differ based on offender age and that a higher proportion of respondents will endorse rehabilitation in the cases involving young offenders compared with the cases involving adult offenders.

Studies directly and systematically examining the impact of offence history on preferences for sentencing purposes are currently lacking. The present study directly asks participants to indicate their preferences for the purposes of sentencing based on scenarios where offence history is systematically manipulated. In so doing, the present study explores the salience of offence history in the public's mind when determining the importance of the various goals of sentencing.

The present study also contributes to the research literature by establishing the relative importance of offender and offence variables in predicting public preferences for the various purposes of sentencing that are specified in State/Territory legislation in Australia. Previous research has not established whether offender age, offence type and offence history have an equal impact on determining the sentencing preferences of the public or whether one variable has a stronger influence than the others. The most advanced previous study in this regard (Tufts and Roberts, 2002) used a logistic regression analysis to examine the predictive utility of offender age (young, adult), offence type (burglary, assault) and criminal history (first-time, repeat) on the Canadian public's preferences for prison versus alternative sanctions using brief hypothetical scenarios. Offence history was found to be a stronger predictor than was offence type or offender age. However, it is not clear from this study whether imprisonment was chosen in the case of repeat offenders for reasons of punishment, denunciation, incapacitation or some other purpose. The present study will make an important contribution to the field in this regard by establishing the relative importance of offender and offence variables in predicting public preferences for the various purposes of sentencing that are specified in State/Territory legislation in Australia.

Method

Participants and procedure

The sample comprised 800 participants (100 from each State/Territory of Australia). Of these 800, 50.3 per cent were male and the mean age was 54.01 years (SD = 14.13). This sample of 800 is a random sub-sample of 6005 participants who completed a major Australia-wide survey on public opinion about sentencing and agreed to take part in a follow-up survey. The sampling frame for the Australia-wide survey of 6005 respondents was the Electronic White Pages (EWP), a listing of residential telephone numbers in Australia.[2] A detailed discussion of the methodology used in this major Australian wide survey is provided in Roberts et al. (in press).

The overall response rate for the original sample of 6005 respondents was 67 per cent and the response rate for this random sub-sample of 800 participants was 98 per cent. The response rates were calculated using the formula: Completed interviews/(eligible contacts + non-contacts). Ineligible contacts were those where the number dialled was unused, not-connected, non-residential or a fax/modem telephone number. Households were also considered ineligible if the members did not speak English, were too ill or deaf to participate, were away for the survey period or the selected participant had moved or was deceased.

Materials

The Interview Schedule was conducted using Computer Assisted Telephone Interviewing and comprised three major sections relating to: (1) purposes of sentencing; (2) criminal justice policy relating to the use of alternatives to imprisonment; and (3) criminal justice policy relating to mandatory sentencing.

The focus of this article is on the first section which was designed to gauge the respondents' views concerning the most important purpose of sentencing for eight brief crime scenarios that differed according to offender age (young, adult), offence type (burglary, serious assault) and offence history (first-time, repeat offender). An example of a scenario is: 'A young 17-year-old offender who has been convicted of burglary and has no previous criminal record.'

After reading each of the eight scenarios, respondents were asked: 'What do you think should be the most important purpose of sentencing?' The response categories read to the respondent were as follows:

- Give them the punishment they deserve.
- Teach them a lesson.
- Make an example of them.
- Rehabilitate them.
- Keep them off the streets.

The five options above were developed to provide easily understandable descriptions of punishment/retribution, individual deterrence, general deterrence, rehabilitation and incapacitation respectively. Participants were asked to choose the single most important purpose of sentencing as studies that have asked respondents to rate the importance of

each purpose have typically failed to reveal which purposes were most important – participants tended to rate all purposes as high in importance (see, for example, Doob, 2000; Roberts, 1996; Roberts and Hough, 2005). The order of presentation of the eight scenarios was randomized to control for possible order effects.

Research design and data analysis

A 2 X 2 X 2 experimental design was employed for this research. The three factors manipulated were offender age (young, adult), offence type (burglary, serious assault) and offender history (first-time offender, repeat offender).

All responses were analysed using version 19 of the Statistical Packages for the Social Sciences (SPSS). The most frequent purpose endorsed by each participant for each offender/offence variable (i.e. young offenders, adult offenders, burglary, serious assault, first-time offenders and repeat offenders) was computed. If the participant did not endorse one single purpose as being most important across the scenarios relating to each offender/offence variable, the respondent was categorized as having a mixed preference.[3]

To determine whether the ratings for most important purpose of sentencing differed significantly according to offender and offence variables, cross-tabulations were performed. The McNemar chi-square statistic with Yates Continuity Correction was computed to determine whether the frequency ratings for each of the five main purposes of sentencing varied significantly based on offender age, offence type and offence history. To reduce the likelihood of type 1 error due to the large number of comparisons being made, a conservative alpha of .01 was used to test for statistical significance in all analyses.

To establish the relative importance of offender age, offence type and offence history on choice of most important purpose of sentencing, a multinomial logistic regression analysis was conducted. In order to accommodate the assumption of independent samples for this analysis,[4] it was necessary to allocate randomly each participant to one of the eight scenarios and to discard their responses to the other seven scenarios. This reduced the group size from 800 to 100 for each of the eight possible combinations of the three offender/offence variables (offender age, offence type, offender history).

Results

Table 1 displays the frequency ratings for the five purposes of sentencing for each of the eight crime scenarios. Rehabilitation was rated more frequently as most important in instances of first-time offenders whereas punishment was rated more frequently as the most important purpose for repeat offenders.

Preferences for young vs adult offenders

Figure 1 displays the frequency with which each of the five main purposes of sentencing was rated as the most important purpose for young versus adult offenders. Approximately

Table 1. Percentage ratings of most important purposes of sentencing for eight crime scenarios differing according to offender and offence characteristics (*N* = 800)

	Punishment	Individual deterrence	General deterrence	Rehabilitation	Incapacitation
Scenario 1	9.9	17.8	5.9	64.3	2.3
Scenario 2	22.4	17.4	6.8	51.6	1.9
Scenario 3	38.3	10.3	7.3	26.9	17.4
Scenario 4	48.4	8.5	6.8	12.9	23.5
Scenario 5	18.4	16.6	7.9	53.4	3.8
Scenario 6	31.8	15.9	6.9	40.3	5.3
Scenario 7	41.0	7.3	5.1	17.0	29.6
Scenario 8	44.1	5.6	3.8	9.0	37.5

Notes:
Scenario 1 = young offender, burglary, no priors.
Scenario 2 = adult offender, burglary, no priors.
Scenario 3 = young offender, burglary, three priors.
Scenario 4 = adult offender, burglary, three priors.
Scenario 5 = young offender, serious assault, no priors.
Scenario 6 = adult offender, serious assault, no priors.
Scenario 7 = young offender, serious assault, three priors.
Scenario 8 = adult offender, serious assault, three priors.

one-third of participants displayed mixed preferences concerning the most important purpose of sentencing across the scenarios depicting young (*n* = 264) and adult offenders (*n* = 265). The differences in frequency ratings between the young and adult offender scenarios were significant for punishment (adult > young offenders; $\chi^2(1, N = 800) = 52.28, p < .001$), rehabilitation (young > adult offenders; $\chi^2(1, N = 800) = 69.23, p < .001$) and incapacitation (adult > young offenders; $\chi^2(1, N = 800) = 20.75, p < .001$). Specific deterrence had no significant effect, $\chi^2(1, N = 800) = 2.41, p > .01$ and the difference with regard to general deterrence could not be computed as one of the cell counts was below five.

Preferences for offences of burglary vs serious assault

The frequency with which each of the five main purposes of sentencing was rated as the most important purpose for offences of burglary versus serious assault is presented in Figure 2. Again, approximately one-third of participants displayed mixed preferences across the scenarios pertaining to offences of serious assault (*n* = 275) and burglary (*n* = 288). The differences in frequency ratings between burglary and serious assault scenarios were significant for punishment (serious assault > burglary; $\chi^2(1, N = 800) = 20.07, p < .001$), rehabilitation (burglary > serious assault; $\chi^2(1, N = 800) = 37.36, p < .001$) and incapacitation (serious assault > burglary; $\chi^2(1, N = 800) = 29.08, p < .001$). Specific deterrence had no significant effect, $\chi^2(1, N = 800) = 3.31, p > .01$ and the difference with regard to general deterrence could not be computed as one of the cell counts was below five.
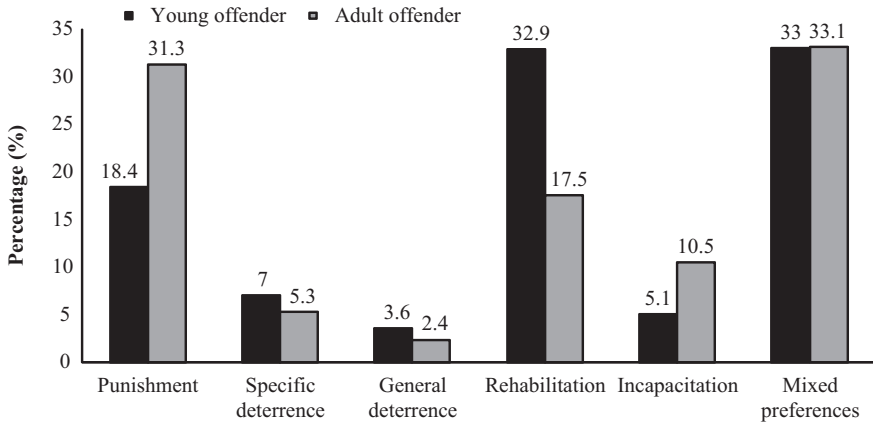
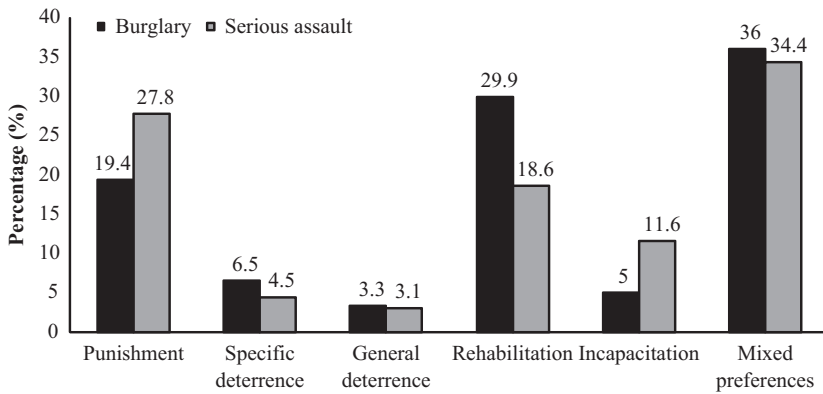**Figure 1.** Frequency ratings for most important purpose of sentencing by offender age (young, adult)

Figure 2. Frequency ratings for most important purpose of sentencing by offence type (burglary, serious assault)

Preferences for repeat vs first-time offenders

Figure 3 depicts the frequency with which each of the five main purposes of sentencing was rated as the most important purpose for first-time and repeat offenders. Approximately one in five respondents demonstrated mixed preferences across the scenarios pertaining to first time ($n = 162$) and repeat ($n = 147$) offenders. The differences in frequency ratings between first-time and repeat offender scenarios were significant for punishment (repeat > first-time; $\chi^2(1, N = 800) = 134.78, p < .001$) and rehabilitation (first-time > repeat; $\chi^2(1, N = 800) = 247.06, p < .001$). The significance of any differences between first-time and repeat offenders for specific deterrence, general deterrence and incapacitation could not be tested as at least one cell count was less than five.
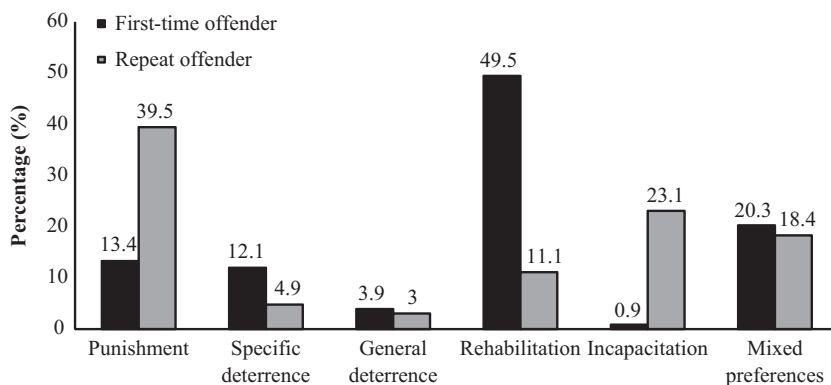
Figure 3. Frequency ratings for most important purpose of sentencing by offence history (first time, repeat offender)

Table 2. Likelihood ratio tests for a three-factor logistic regression model predicting most important purpose of sentencing

Variables	χ^2 to remove	d.f.	Significance
Offender Age	25.43	4	$p < .001$
Offence Type	32.41	4	$p < .001$
Offence History	185.72	4	$p < .001$
All variables (full model)	2333.55	12	$p < .001$

Relative importance of offender age, offence history and offence type in predicting most important purpose of sentencing

A multinomial logistic regression analysis was performed to assess the relative importance of offender age, offence type and offence history in predicting respondents' choice of most important purpose of sentencing. A full factorial model was initially used to assess the interactive effects of these predictors and no interactive effects were evident. Hence, a model assessing main effects only was employed and the goodness-of-fit index for this model using the deviance criterion indicated there was a good model fit to the data, $\chi^2(16, N = 800) = 19.46, p = .25$. The overall model comprising the three offender/offence variables was able to account for more than a quarter of the variance in sentencing preferences, Nagelkerke $R^2 = .27$. The proportional by chance accuracy rate[5] for the overall model was 25 per cent and the overall correct classification rate[6] was 44 per cent. The percentage of correct classifications for the five purposes of sentencing was 65 per cent for punishment, 0 per cent for specific deterrence, general deterrence and incapacitation and 75 per cent for rehabilitation.

On the basis of log-likelihood ratio tests (see Table 2), Offender Age ($p < .001$), Offence Type ($p < .001$) and Offence History ($p < .001$) were each found to enhance prediction of the most important purpose of sentencing.

Table 3. Parameter estimates for Offender Age, Offence Type and Offence History with punishment as the reference category

	B	Wald	d.f.	Significance	Exp(B)	Confidence Interval for Exp(B)
Incapacitation						
[a]Offender Age = 0	.05	.04	1	$p > .01$	1.05	.68–1.62
[b]Offence Type = 0	−.26	1.32	1	$p > .01$	.77	.50–1.20
[c]Offence History = 0	−1.26	19.09	1	$p < .001$	.28	.16–.50
Specific deterrence						
[a]Offender Age = 0	.57	5.38	1	$p > .01$	1.76	1.09–2.84
[b]Offence Type = 0	1.03	16.97	1	$p < .001$	2.79	1.71–4.55
[c]Offence History = 0	1.44	32.49	1	$p < .001$	4.23	2.58–6.95
General deterrence						
[a]Offender Age = 0	.06	.04	1	$p > .01$	1.06	.58–1.93
[b]Offence Type = 0	.78	6.38	1	$p > .01$	2.17	1.19–3.97
[c]Offence History = 0	.71	5.41	1	$p > .01$	2.03	1.12–3.70
Rehabilitation						
[a]Offender Age = 0	.89	20.94	1	$p < .001$	2.44	1.67–3.59
[b]Offence Type = 0	.68	12.27	1	$p < .001$	1.98	1.35–2.90
[c]Offence History = 0	1.81	79.22	1	$p < .001$	6.08	4.09–9.04

Notes:
[a] Offender Age; 0 = young offender.
[b] Offender Type; 0 = burglary.
[c] Offence History; 0 = first-time offender.

Table 3 displays the parameter estimates for the individual contribution of each variable in predicting each of the purposes of sentencing using the first category (i.e. punishment) as the reference category. Offence History was the strongest predictor; the likelihood of endorsing specific deterrence and rehabilitation, in comparison to punishment, was significantly increased for first-time offenders. In contrast, the likelihood of choosing incapacitation over punishment was significantly reduced for first-time offenders. The odds of selecting each purpose in comparison to punishment for first-time offenders was increased by a factor of 4.2 for specific deterrence and 6.1 for rehabilitation and the odds were decreased by a factor of 0.28 for incapacitation. Offence Type was a significant predictor of specific deterrence and rehabilitation and was a stronger predictor than was Offender Age for specific deterrence. If the offence type was burglary, participants were more likely to endorse specific deterrence (odds increased by 2.8) or rehabilitation (odds increased by 2.0) in comparison to punishment. Offender Age was a stronger predictor of rehabilitation than was Offence Type; the likelihood of endorsing rehabilitation over punishment in the case of young offenders was increased by a factor of 2.4.

Discussion

The current study was designed to address three important issues that have emerged from the literature regarding public preferences for sentencing purposes. First, while offence

type, offender age and offence history are important considerations in the sentencing process in many jurisdictions, the research directly examining the influence of these factors on public preferences for sentencing purposes is limited. Second, no research to date has directly examined the relative salience of offender and offence characteristics in determining public preferences for the various purposes of sentencing. Third, although many western democratic nations have adopted a hybrid approach to establishing the purposes of sentencing, we know relatively little about the extent of public support for these legally espoused purposes in Australia.

The results clearly demonstrate that the Australian public takes into consideration offence type, offender age and offence history when determining the most appropriate purpose of sentencing. People believe that when it comes to sentencing first-time and young offenders as well as less serious offences, the most important purpose is rehabilitation. In contrast, punishment was endorsed as being the most important purpose in the case of repeat offenders, adult offenders and serious offences. Incapacitation was also endorsed, admittedly more infrequently, by a minority of respondents as being most important in cases involving repeat offenders, adult offenders and serious offences. There appeared to be little support for deterrence whether on an individual basis or a general one.

The present findings concur with those of previous studies that have investigated the effects of offence type (Indermaur, 1990; Paulin et al., 2003; Roberts et al., 2009) and offender age (Flanagan and Longmire, 1996; Piquero and Steinberg, 2010; Roberts and Hough, 2005; Tufts and Roberts, 2002) as they show that the public's preferences for the various purposes of sentencing differ according to offence type and offender age. It is difficult to compare the findings pertaining to offence history with those of previous studies (Applegate et al., 1996; Hough et al., 2008; Roberts and Hough, 2011; Roberts et al., 2009; Russell and Morgan, 2001, cited in Roberts, 2008b; Tufts and Roberts, 2002) given that these previous studies did not directly investigate the rationale for the public's support of harsher sentences for repeat offenders and thus it is unclear whether harsher sentencing was supported on the grounds of utilitarian concerns such as incapacitation or on 'just desert' considerations.

A pertinent issue here however is whether sentencing policy and practice is in line with the observed sentencing preferences of the Australian people. As discussed in the introduction, common law as well as sentencing legislation in many States and Territories of Australia stipulates that factors such as offence seriousness, offender age and criminal record should be taken into consideration at sentencing. The findings of the present study provide support for current policy and practice given that the public attributed some importance to offence type. Punishment was prescribed more often as being the most important purpose of sentencing for the cases involving serious assault compared with the cases involving burglary. Furthermore, consistent with current policy and practice, rehabilitation was rated more frequently as being the most important purpose of sentencing for cases involving young offenders compared with cases involving adult offenders.

Common law and legislation in most jurisdictions in Australia also indicates that more severe sentences should be imposed on those with longer criminal records to reflect the culpability of the offender, the need to deter the individual from further offending and the increased need to protect the community from repeat offenders (see, for example, Mackenzie and Stobbs, 2010). In the present study, the public was clearly

more in favour of punishment for repeat offenders compared with first-time offenders. Although it appeared that incapacitation was also chosen more often for cases involving repeat offenders, the significance of this trend could not be established. There was no evidence to suggest the public were supportive of the need for specific deterrence in the case of repeat offenders and in fact the majority were more likely to endorse specific deterrence in cases involving first-time offenders. This latter finding suggests that most respondents were concerned more with 'just deserts' than utilitarian concerns in the case of repeat offenders. Taken as a whole though, it appears that sentencing policy and practice in Australia is broadly consistent with the preferences of the public in so far as the relative importance of the various purposes differs according to offender and offence characteristics.

The most substantial contribution made by the present study was to establish the relative importance of offence type, offender age and offence history in predicting the public's preferences for the various sentencing purposes. The multinomial logistic regression analysis revealed that offence history had the strongest influence on the choice of most important purpose of sentencing. Although all three factors were significant determinants for whether rehabilitation as opposed to punishment was chosen as most important, offence history was clearly the major determinant followed by offender age and finally offence type. The odds of endorsing rehabilitation, as opposed to punishment, were increased significantly by a factor of 6.1 in the case of a first-time offender. This observation regarding the importance of offence history is supported by previous research findings which have indicated that people endorse the use of harsher penalties with repeat offenders (e.g. Applegate et al., 1996; Hough et al., 2008; Roberts et al., 2009; Russell and Morgan, 2001, cited in Roberts, 2008b; Tufts and Roberts, 2002). The present study has expanded the research in this area by examining people's rationales for the use of harsher penalties in such instances. Taken as a whole, the findings reported here indicate that the public is more concerned with rehabilitation for first-time offenders, whereas retribution (and to a lesser extent incapacitation) are considered to be most important in the case of repeat offenders.

Despite the value of these findings, this study could be replicated with some improvements in methodology. As noted by Roberts (1996), research involving brief crime scenarios where just one or a small number of variables are manipulated may lead to a situation where demand characteristics influence the results. In this particular instance, the specification of offender age, offence type and offence history may have drawn participants' attention to these details and made it clear that the researchers were expecting these variables to influence their decisions. Future research could address this issue in one of two ways. First, as suggested by Roberts (1996), the offender/offence variables could be embedded in a more detailed scenario which would make the experimental manipulation less evident. Alternatively, the use of a between-subjects experimental design requiring each participant to respond to only one scenario could be adopted.

There were some other noteworthy limitations that should be addressed in future research. First, our model was unable to classify accurately cases for general deterrence, specific deterrence and incapacitation. The most likely explanation for this is that these responses were rarely selected by respondents and statistically speaking, it is difficult to predict accurately events that occur with a low frequency. However, the low levels of

support for general and specific deterrence may be accounted for by the possibility that respondents did not interpret the injunctions 'make an example of them' and 'teach them a lesson' in the same way as they were intended (as an expression of forms of utilitarian purposes). It is plausible that respondents may have believed that 'make an example of them' was a form of shaming. It is also plausible that rehabilitation was viewed as a method for reducing the individual's chance of re-offending thus reducing the number of respondents choosing specific deterrence.[7] Although pilot testing was conducted prior to launching the survey, future research could perhaps explore these possibilities through cognitive pre-testing to ascertain how respondents understand the intended meaning of such phrases. Second, our model was only able to account for just over one-quarter of the variance in preferences for sentencing purposes. Further research is needed to identify other pertinent factors that may predict sentencing preferences and to determine whether public support for specific and general deterrence as well as incapacitation remains low when additional factors relevant to sentencing are taken into consideration. A final limitation is that the present study explored public support for only the traditional purposes of sentencing. It would be fruitful for further research to explore the level of public support for restorative justice purposes. It would also be beneficial for future research to assess public support for the general principles of consistency and proportionality in sentencing given these are fundamental principles in the sentencing process in Australia as well as many other western nations.[8]

Despite these shortcomings, the findings from the present study have shed light on the ambiguity surrounding public support for current sentencing legislation and practice. Consistent with common law and legislation in many jurisdictions in Australia, it is clear that many Australians make important distinctions about what can be, and should be, achieved by sentencing on the basis of salient offence and offender variables. This concordance between public expectations and sentencing policy and practice challenges claims that the legislation and the judiciary are out of touch with the expectations of the community at least as far as the broad and traditional purposes of sentencing are concerned. This study has demonstrated that there is strong public support for sentencing policy and practice that takes into consideration offender and offence characteristics at sentencing.

Acknowledgements

Notes

1. We use the term 'public' in a singular sense throughout this article as a matter of convenience. We recognize that 'the public' is not a homogenous group but rather is an extremely diverse population comprised of many sub-groups with differing views.
2. A limitation of telephone surveys is that they tend not to be representative of certain sub-populations, such as young people, as those without fixed landlines will not be contacted (Steel et al., 1996). While on average 88 per cent of adults in Australia use both fixed-line phones and mobile phones, only 75 per cent of adults aged 18 to 24 maintain a fixed landline

(Australian Communications and Media Authority, 2009). The aim of this article is to explore public preferences using a 'fair' sample of the public as opposed to estimating the prevalence of certain attitudes and, as such, the exclusion of respondents without fixed landlines should not be viewed as compromising the validity of the overall findings.

3. For instance, there were four different scenarios relating to a young 17-year-old offender. In these scenarios, the young 17-year-old offender had either committed burglary or serious assault and was either a first-time offender or a repeat offender. It was possible for example that a respondent may have selected punishment in two scenarios and rehabilitation in the other two or they may have selected a different purpose for each of the four scenarios relating to the young 17-year-old offender. In instances such as this, the respondent was categorized as having a mixed preference for the young offender scenarios.

4. Logistic regression assumes a between-subjects design in which the responses of different cases are independent. Typical strategies to address the violation of this assumption in instances where paired data are due to a pre-post design or control-matched pair design have been developed but these were not valid options for the present study involving a fully within-subjects repeated measures design whereby participants responded to each of the eight scenarios. A viable solution for the present study was to convert the data-set into a between-subjects design by randomly allocating each participant to just one of the eight scenarios and discarding their responses on the other scenarios.

5. The proportional by chance accuracy rate relates to the overall accuracy rate achievable by chance alone and is computed by squaring and summing the percentage of cases in each group comprising the dependent variable. A good test for the improvement over chance in classification rates offered by a model is to compare the observed overall classification rate of a model with the proportional by chance accuracy rate and an improvement of 25 per cent is considered adequate. In the present analysis, where the proportional by chance accuracy rate is 25 per cent, a model that than can provide a 25 per cent improvement in prediction over and above the proportional by chance rate would require a minimum of an overall correct classification rate of 31.25 per cent.

6. The overall correct classification rate relates to the overall percentage of cases that were correctly predicted by the logistic regression model and is obtained by comparing the actual/observed response for each case with the response predicted by the logistic regression model for each case.

7. We wish to thank an anonymous reviewer for highlighting this plausible explanation for the low levels of support for general and specific deterrence in the present study.

8. We would like to thank the same anonymous reviewer for making this helpful suggestion.

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