SOUTHWEST TEXAS STATE UNIVERSITY

THE ATTRACTIVENESS OF THE VICTIMS AND DEFENDANTS OF A CRIME AS CONTRIBUTING FACTORS TO THE SEVERITY OF THE PENALTIES ASSIGNED BY SIMULATED JURORS

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ABSTRACT

Ideally, when a jury is deciding upon the guilt or innocence of a defendant, the facts pertaining to the crime are the sole determinants of the verdict reached. There is reason to believe, however, that this is not always the case. A substantial body of literature supports the idea that the impression jurors form about both the victim and the defendant seems to influence the verdict the jury reaches (Kaplan and Kemmerick, 1974; Landy and Aronson, 1969; Miller, 1970; Efran, 1974; Sigall and Ostrove, 1975; Perrin, 1921; Weld and Danzig, 1940; Weld and Roff, 1938; Kalven and Zeisel, 1966; Triandis, et al, 1966). In turn, these impressions that develop are possibly determined by the social characteristics and attitudes that the jurors consider desirable or attractive.

The main intent of this study is to further examine the relationship between the personal and social characteristics of both the victim and the defendant of a crime and the severity of the penalty that is assigned. The hypotheses of the study were "Crimes committed against attractive victims are more severely punished than crimes committed against unattractive victims," and "Crimes committed by attractive defendants are less severely punished than are crimes committed by unattractive defendants."

An experiment was conducted using four sets of questionnaires, each of which described four murder cases. The facts of the cases were identical on all of the four questionnaires; however, the characteristics of the victims and defendants were varied. Characteristics used to describe the victims and defendants were sex, ethnicity, age, family affiliation and occupation. Information about the personality and disposition of the individuals were also described. After reading the facts of the case and the description of the parties involved, the respondents were asked to choose one of four possible penalties that they felt was the most appropriate for the case described.

The major findings of the study indicate that when the defendant of a crime is attractive, the penalties the jurors assign are more lenient than when the defendant is unattractive. This difference is statistically significant. People assign slightly harsher penalties for defendants when the victim is attractive than when the victim is unattractive. This difference, however, is not statistically significant. There does not appear to be an interaction effect between the characteristics of the victim and defendant, with regards to the severity of the penalty assigned for different combinations of attractive and unattractive victims and defendants. Generally speaking, people choose harsher penalties than are currently possible according to the Texas Penal Code. If the findings of this study were replicated gathering information from the respondents as

to why they chose the sentences that they did, the findings could have important implications for our legal system.

INTRODUCTION

Ideally, when a jury is deciding upon the guilt or innocence of a defendant, the facts pertaining to the crime are the sole determinants of the verdict reached. Describing the procedure of a criminal trial, Lawson (1969:123) states that twelve "ordinary" citizens who are supposedly free from bias or partiality of any kind are elected to make a decision on the case. These unprejudiced people are to base their decision on the facts that are stated in the courtroom and on the facts alone. There is reason to believe, however, that this is not always the case.

The impression jurors form about both the victim and the defendant seems to influence the verdict the jury reaches (Kaplan and Kemmerick, 1974; Landy and Aronson, 1969; Miller, 1970; Efran, 1974; Sigall and Ostrove, 1975; Perrin, 1921, Weld and Danzig, 1940; Weld and Roff, 1938; Kalven and Zeisel, 1966; Triandis, Loh, and Levin, 1966). In turn, these impressions that develop are possibly determined by the social characteristics and attitudes that the jurors consider desirable or attractive.

REVIEW OF THE LITERATURE

IMPRESSION FORMATION

One of the earliest studies pertaining to impression formation was done by Asch (1946). Asch points out that the impressions people form when they first encounter another individual develop extremely rapidly and no conscious thinking is involved (1946:258). He suggests that possibly these impressions are the sum of the individual traits or characteristics a person has. It is more likely, however, that impressions are based on the total personality and traits of the individual without considering his individual characteristics.

Asch examined the process involved in impression formation by having subjects read a list of unrelated characteristics which allegedly described a certain individual. The subjects were asked to write a description of the impression that developed upon hearing the list of adjectives. The written impressions indicated that adults tend to form an integrated impression of someone even though they have been described by separate, unrelated traits.

In another experiment conducted by Asch, the same procedure was used with one minor variation. Two groups of subjects read lists of adjectives. One group heard a list of adjectives including "intelligent, skillful, industrious,

warm, determined, etc." The second group heard the same list except that the word "cold" was substituted for "warm." Changing this one word had an important effect on the impressions formed. The group hearing the word warm was much more favorable in their descriptions of the individual than were the subjects hearing the word cold (1946:263). Based on the findings of several studies Asch conducted, he speculates that it is possible that individual differences among the subjects, especially personal qualities, might contribute to the impression formed of others (1946:283).

According to Kaplan and Kemmerick (1974:493-94) the jury receives two different kinds of information during a trial. Nonevidential information are facts that are indirectly related to the crime. A prime example would be the personal characteristics of the defendant. Kaplan and Kemmerick examined the dynamics involved when jury members combine the evidential and nonevidential. Simulated jurors read accounts of traffic violations that varied in nature and seriousness. The subjects were asked to rate the violation in terms of how guilty they judged the defendant to be and the degree of punishment they deemed appropriate. Half of the subjects read cases which gave strongly incriminating information. The other half read cases giving information with a low degree of incrimination. In each case, the defendant was described in either positive terms, negative terms, neutral terms, or was not described at all. The results of the study revealed that when the defendant

was described by negative characteristics, the subjects judged him to be more guilty and assigned more severe punishment than when the defendant was described in positive terms (1974:497). The authors concluded that a negatively evaluated defendant affects the jurors even in cases where the evidence is lowly incriminating or strongly indicates that the defendant is innocent (1974:498).

Weld and Roff (1938) studied the process involved in opinion formation based on evidence presented in a trial. Using the specifics of a factual bigamy case, several different groups of law students were asked to record their judgment of guilt or innocence of the defendant on a scale ranging from certainty of innocence to certainty of guilt. Subjects recorded their decisions after each stage of the trial, beginning with the indictment and ending with the verdict that was reached by the original jury. The first step that the authors describe in the process of the formation of individual opinion is the evaluation of the evidence that they are presented with. This evaluation is influenced by previous attitudes or opinions that have been formed and by the importance the individual attaches to the pieces of testimony. The importance of the evidence depends partially on the character of the witness and also on the individual's belief about the feasibility of the evidence and how frequently such an event might occur (1938:626).

Further investigation of the dynamics involved in the jury's receiving and acceptance of evidence and the

importance attached to the evidence was conducted by Weld and Danzig (1940). The researchers organized a moot court trial to find out what actually goes on in courtroom proceedings. Three juries were used, one was all male, one was all female, and the third was male and female. Members of the three juries received a data sheet which listed eighteen stages in the trial. Jurors were instructed to indicate their judgment for the plaintiff and the defendant of the trial after each stage of the trial took place. Their judgments were made using a nine point scale ranging from certainty that the defendant was innocent to certainty of the defendant's guilt (1940:519). After all of the evidence had been presented, the three juries returned to the jury rooms and were instructed by the foreman to record their judgment of the guilt of the defendant on their data sheets.

An overall analysis of the different stages of the trial revealed that the jurors' judgment of the guilt of the defendant rose and fell as different pieces of evidence were presented (1940:536). As an illustration of this finding, after stage one, the opening statement of the plaintiff, the jurors indicated a slight belief in the guilt of the defendant. After the second stage, the opening statement of the defendant, the belief in the guilt of the defendant decreased.

Weld and Danzig address the possibility of personality having an influence on the decision of the jurors. They found that from the early stages of the trial, some of the

jurors indicated a belief that the plaintiffs were sincere and honest, although some people were mistrustful of them. Male jurors were more influenced by the female plaintiffs' testimony than were the female jurors. This lends support to the idea that elements other than the facts of the case influence the verdict of jurors. In this particular case, the demeanor of the plaintiff may have been influential in the opinions formed by the jurors.

Extensive research on the dynamics of the American jury system reveal some very instructive information regarding the impressions formed about the victim and the defendant. Among other things, Kalven and Zeisel (1966) explored the feelings that jury members have about the defendant of a crime. The authors suggest that there are certain characteristics possessed by a defendant that elicit a more lenient decision from the jury than others do. This leniency may result because of beliefs about what constitutes appropriate punishment. At times, however, it is possible that the leniency is a manifestation of empathetic feelings of the juror for the defendant (1966:194).

Some of the most influential characteristics of the defendant which contribute to lenient penalties are age, sex, appearance of the defendant, family affiliation, occupation and employment record (Kalven and Zeisel, 1966: 200-205). Judges and juries tend to be more sympathetic to both the elderly and the young; middle-aged people do not fare as well. Female defendants also tend to evoke more

sympathetic feelings than males. Well-dressed, "nice-looking" people also attract the attention and sympathy of the judge and jury. People with families who support them during the trial seem to elicit sympathy, but contrary to what might be expected, family responsibility does not significantly contribute to more lenient decisions (1966:206). Certain occupations, service-related ones in particular, make the jury more lenient in their verdicts. In some cases, a good employment record is used as a reason for assessing a less severe penalty on the defendant (1966:208). Kalven and Zeisel proport that all of these different variables have one thing in common. All of them are personal characteristics that make the jury sympathetic toward the defendant (1966:210). They discovered from reviewing decisions passed down by judges and juries that an unattractive defendant (one who lacks the characteristics described above) has a "converse" effect on the jury. That is, defendants lacking these personal characteristics did not evoke the sympathy of the judge and jury and did not, therefore, receive lenient penalties.

Kalven and Zeisel also address the importance of the role that the victim plays in the decision that the jury makes concerning the defendant's guilt. The emphasis of their study of the victim, however, concerns ways in which the victim is seen as contributing to or promoting the risk that something might happen to him. In cases where the victim has been negligent, has instigated the act that

resulted in the crime, or has been drinking with the defendant, the jury tends to be more lenient in punishing the defendant (1966:243). Although it was not mentioned by Kalven and Zeisel, this weighing of the victim's conduct could include incidents in which the behavior or associations of the victim obviously antagonized the wrath of the defendant.

As mentioned earlier it seems likely that the impressions that people form about others are strongly influenced by the social characteristics and attitudes that they consider desirable or attractive. Several studies have been conducted which examine the factors that cause people to like other people or to view them favorably. Differentiating between "attractive" and "unattractive" individuals has been a commonly used method in analyzing who is likable and will be evaluated positively.

Two experiments conducted by Landy and Aronson (1969) examined the relationship between the character of both the defendant and the victim of a crime and the punishment simulated jurors will assign. In the first experiment, the subjects were divided into two groups. Half of the subjects read descriptions of the crime in which the victim was unattractive, while the other half read descriptions in which the victim was attractive. The subjects were asked to sentence the defendant to a specific number of years of imprisonment according to their own personal judgment. The results revealed that subjects reading the account involving the attractive victim tended to sentence the defendant to a longer term than did subjects who read the account of the

same crime with a less attractive victim (1969:145). In the second experiment, the same procedure was used, but the character of the defendant was also varied. Subjects who read the account of the crime committed by an unattractive defendant sentenced the defendant more severely than the subjects who read the account involving an attractive or neutral defendant (1969:150). The authors conclude that the characteristics of both the defendant and the victim are important variables contributing to the severity of the sentence assigned for a crime (1969:152). Sigall and Ostrove (1975:413) also found that attractive defendants were less severely punished than unattractive defendants who committed the identical crime.

PHYSICAL CHARACTERISTICS

One characteristic that seems to play an important part in impression formation is physical attractiveness. As early as the 1920's, Perrin proported that the physical characteristics of an individual contributes significantly to the general impression others have of him. According to Perrin (1921:204) "people do react definitely to the physical in other people." Why someone's physical appearance or mannerisms have such an effect on the way people evaluate others was a topic Perrin and others have considered worthy of speculation. Of interest to this study are the different things that Perrin included under the heading of "physical." In addition to facial features,

body proportion and appearance, he considered personal habits, (hair style, general care of body, skin appearance) expressive behavior (nervousness, confidence, tendency to laugh or cry), voice (loud, soft, nasality) and dress (neat, stylist, good taste) (1921:206-7). Although these things may sound picayune, they are criteria that might contribute to the evaluation of a person's attractiveness or unattractiveness.

Miller (1970) found that when subjects were shown photographs of people of varying degrees of physical attractiveness, highly attractive individuals were associated with positive personal characteristics. Subjects associated the unattractive photographs with negative charater traits (1970:241). This happened even though the subjects received no information about the individuals other than what they looked like. Efran (1974) examined the effect of physical appearance on the judgment of guilt. He found that attractive defendants were evaluated with less certainty of guilt and were recommended to receive less severe punishment than were unattractive defendants (1974:49). Sigall and Ostrove (1975:413) also found that when the physical attractiveness of defendants was varied, subjects sentenced attractive defendants less severely than unattractive defendants who had committed the identical crime.

SOCIAL CHARACTERISTICS

Social characteristics may well be as important as physical characteristics in contributing to impression formation. A person's economic status is one of the most important contributors. Byrne, Clore, and Worchel (1966) examined the possible relationship between similarity of socio-economic status and people's attraction for others. Subjects were given information concerning the attitudes and economic status of a stranger and were asked to evaluate him. The economic status of both the respondents and the stranger was based on criteria such as the amount of spending money available for each month and the amount spent on entertainment and clothes. The findings indicated that attraction was greatest for strangers with similar economic status to that of the respondents and was weakest toward strangers with dissimilar economic status (1966:224). Another study of social status and impression formation used manner of dress as the indicator of social status (Bichman, 1971). This innovative study used stimulus persons dressed as high status individuals (in a suit and tie or nice dress) and low status individuals (work clothes or plain skirt and blouse) to examine how manner of dress affects whether or not people deal honestly with them. The stimulus person placed a dime in a phone booth, left the booth and waited for someone to use the same booth. While people were using the phone, the stimulus person approached and asked if the subject (the phone-user) had found a dime

in the booth. When the stimulus person was dressed as a high status individual, the percentage of return was more than twice as high as when he/she was dressed as a low status individual (1971:88).

As indicated by these studies, a person's perceived or true status seems to have an effect on how he is treated by others. If a person perceived to be of low status is treated dishonestly in a situation like the phone booth experiment, it is highly probable that in the atmosphere of a courtroom, people will be treated differentially on the basis of perceived status.

It is also possible that economic status, as indicated not only by dress but also by the race or perceived ethnic identity of the victim and defendant will influence the verdict of the jury concerning guilt and degree of punishment assigned. Although not directly related to decisions of jurors, a couple of studies in the area of interpersonal attraction and sociometry can give some insight about the effect of race and status on people's opinions about others. A sociometric test given to thirteen groups of people indicated that blacks and whites both prefer members of their own race for their friends (Mann, 1958:155). A sociometric test administered to males in the infantry revealed that whites prefer other whites and blacks prefer blacks to spend their recreation time with, to be their bunkmates, and to be their partner in combat (Berkur, et. al, 1958:147). Byrne and Wong (1962:246) found that prejudiced

people respond much less favorably to person's identified as black ("Negro") than did people who are not prejudiced. The findings of these studies could indicate that the race or ethnic identity of the jurors and of the victim and defendant of a crime could have some influence on the opinion formed or the decision reached by a jury.

One study that lends support to this possibility was an experiment conducted by Triandis, Loh and Levin (1966). Color slides of two men and a taped recording of an opinion concerning civil rights were presented simultaneously to the subjects of the experiment. The person viewed on the slide varied; the actors were either black or white and were wearing the attire of a businessman or a laborer. The taped statement made by the actor either opposed or supported the civil rights issue and the quality of the English used also varied (1966:469). After seeing the slide and hearing the recording, the subjects indicated their feelings about the actor regarding his character, ideas, desirability as a friend, neighbor or relative. The results indicated the quality of English spoken by the actor influenced whether the subjects admired his character or ideas. The English, race and appearance, respectively, of the actor were determinants in whether or not subjects would have the person as a close friend (1966:469-70). Although friendship and acceptance of a person's ideas are not the things being considered in a trial, it is possible to see that the race of an individual, along with several other

variables, could definitely be involved in the considerations and decisions made by jurors.

Even after impressions have been formed and decisions of guilt or innocence have been made, further differential treatment takes place in carrying out the sentence of the judge and/or jury. Johnson (1957) suggests that there are certain "selective factors" influencing whether or not a person will be subject to capital punishment. Using official statistics of convicted capital offenders who had entered Death Row in a North Carolina prison since 1906, Johnson examined characteristics of the offenders who were executed. Statistics revealed that of those convicted of a capital offense, very few received the death penalty. Furthermore, not all of those who received the death penalty were executed. Those who <u>were</u> executed, however, were primarily black males of low educational and occupational levels (1957:168-69). Johnson identified socio-economic status, sex, and race as being selective factors that increase a person's possibility of being executed for an offense.

Wolfgang and Riedel (1973) conducted extensive research of capital rape offenses over a twenty-year time span. The findings indicated that the death penalty has been given to blacks as compared to whites in a manner which "exceeds any statistical notion of chance or fortuity" (1973:133).

Progressing one step beyond the kind of sentence administered to defendants, considerations of parole for incarcerated offenders also is influenced by characteristics

of the offender. Scott (1974) looked at the prison records of potential parolees that were submitted to parole boards prior to the hearings.

Information that is taken into consideration in granting or denying parole includes the seriousness of the crime, previous criminal involvement, the number of disciplinary measures taken during the inmate's stay and his adjustment to prison life (1974:216-16). Personal and biographical information contained in the records included age, level of educational, race, sex, and socioeconomic status (1974:217). Scott found that the personal and social characteristics of the inmate are much better indicators of whether he will be granted parole than the combination of adjustment to prison life, cooperation and participation (1974:222).

Of additional interest is an examination of the differences in legal, actual, and desired penalties for criminal offenses, regardless of whether the offenses are punishable by death. Even though a specific offense is legally defined as a capital offense, there is not consensual agreement by the public that people should be sentenced to death for such offenses (Johnson, 1957:166). Rose and Prell (1955:259) found that there are significant differences in what penalty can legally be assigned for an offense, what action is actually taken, and what the public thinks should be done. They concluded, however, that there are some crimes that most people agree are serious enough to warrant severe

punishment. Gibbons (1969) conducted a study in which people were asked to specify what punishment they considered appropriate for several different types of crimes. Respondents were asked to assign penalties for fictitious crimes with possible penalties ranging from no penalty at all to execution. The punishment the respondents assigned were compared to sentences assigned to actual cases in the state of California. Gibbons used these responses as an indicator to judge whether or not public sentiment concerning specific crimes and their penalties were in agreement with what happens in reality.

When compared to the statistics from the California courts, there were both similarities and differences found between the actual treatment of offenders and what the respondents suggested. There was, however, a high degree of agreement concerning what should be done and what actually is done to people convicted of murder. Nearly all murderers are imprisoned. This finding is consistent with Rose and Prell's suggestions that certain crimes are considered serious enough to warrant severe punishment.

One question that comes to mind when examining the facts surrounding differential sentences patterns is what function is punishment of any kind supposed to serve. Gibbs (1968) analyzes the controversies that exist concerning the issue of punishment for crimes. The classical idea of "justice" advocates equal treatment for all people who commit the identical crime. This branch

of theory emphasizes punishment as an agent of deterrence. On the other hand, the "positivists" charge that punishment does not act as a deterrent and should, therefore, focus on rehabilitation of the individual offender (1968:515).

CAPITAL PUNISHMENT

The most severe form of punishment is, of course, the death penalty. There have been arguments proposed both favoring and opposing the death penalty. Lehtinen (1977) contends that the utilization of the death penalty could be a significant contribution to the protection of society (1977:238). She states that "rational" people are more afraid of death than of anything else; therefore, the death penalty has the potential for being a very effective deterrent. Lehtinen offers several other reasons why the death penalty should be utilized. For one thing, she states that attempts to rehabilitate the convicted murderer have been futile (1977:250). Furthermore, individuals have given up the practice of seeking personal revenge when wronged by another in exchange for protection by the state. Failure to protect citizens appropriately makes the public lose faith in the competence of the state. Lehtinen states that it is the duty of the state to execute first degree murderers (1977:27). For the death penalty to be effective, all first degree murderers should be executed (1977:241). Lehtinen points out that many public opinion surveys indicate that a majority of people approve of capital punishment for murder. Finally, the author proports that if it

were the practice to kill all of those who kill others, it might be that murderers would be deterred. Even in the case of acts of passion, a person might control his anger or passion if he knew that murder results in murder (1977:245).

Several arguments do exist in opposition to the death penalty. Gibbs (1968) opposes capital punishment for several reasons. The irreversibility of the action, the belief in the "sanctity" of human life, and the disproportionate concentration of the underprivileged among the executed are just three of the reasons he cites for his opposition (1968:516). Gibbs (1968:530) and Smith (1977:253) both point out that studies indicate that the death penalty does not act as any better deterrent than other forms of punishment. Smith (1977:255) in a counter-attack on Lehtinen, states that taking the lives of every person who commits murder reinforces the acceptability of killing. Smith, like Gibbs, disapproves of the disproportionate number of males, blacks, ethnic minorities, and other underprivileged people who are executed. One other argument against the death penalty is the possibility of executing an innocent individual (1977:255).

Regardless of the reasoning behind using punishment in general or the arguments for and against the death penalty in particular, the fact remains that people who have committed the identical crime are sanctioned in different

ways. This differential treatment does not seem to be logically justified. From reviewing the literature related to impression formation and differential sentencing patterns certain things seem obvious. The physical appearance and social characteristics such as race and social status (not to mention age, sex, occupation) and the demeanor of an individual seem to have a definite impact on the impressions others form about him, either favorable or unfavorable. Placing this in the context of courtroom procedures, it appears that the characteristics of the victim and defendant influence the severity of the penalty chosen by jurors.

The main intent of this study is to further examine the relationship between the personal and social characteristics of both the victim and defendant of a crime and the severity of the penalty that is assigned. Specifically, the ethnicity of the respondent and the parties involved in the crime will be examined to see if there is any interplay between the ethnicity of the respondent and the ethnicity of the victim and defendant and the severity of the penalty imposed.

HYPOTHESES

Following are the hypotheses that will be tested:

1. Crimes committed against attractive victims will be more severely punished than crimes committed against unattractive victims.
2. Crimes committed by attractive defendants will be less severely punished than crimes committed by unattractive defendants.

METHOD

INSTRUMENT

An experiment was conducted using four sets of questionnaires, each of which described four murder cases. The facts of the cases were identical on all of the questionnaires; however, the characteristics of the victims and defendants were varied. Under the first condition, both the victims and defendants of all four cases were described as attractive. The second condition described the victims as being attractive, but the defendants were described as unattractive. Both the victims and defendants were described in unattractive terms in the third condition. The final condition characterized the victims as unattractive and the defendants as attractive. Characteristics used to describe the victims and defendants were sex, ethnicity, age, family affiliation and occupation. Information about the personality and disposition of the individuals were also described (See Appendix).

A pilot study was conducted, primarily to find out whether there were any unforeseen flaws in the questionnaire. Minor revisions in the instructions were made, one of which was instructing the respondents <u>not</u> to take parole into consideration in choosing the penalty. Without this specification the penalties chosen probably would have

been altered. Harsher sentences might have been assigned to ensure that the defendant served a lengthy sentence if the defendant was unattractive, as well as lighter sentences being assigned to avoid an attractive defendant serving a long period of time if parole was not granted.

Each of the four questionnaires were randomly distributed among the sample, with approximately one fourth of the subjects responding to the four different conditions. Upon receiving the questionnaire, subjects were informed that the study they were participating in was an investigation of the penalties possible for murder. They were asked to assume that they were acting as jurors who had to decide upon the penalty for each of the four murder cases described on the questionnaire. Further information was given which specified that the defendant was guilty beyond doubt and that the only problem at hand was deciding upon the penalty that they felt was most appropriate for the crime committed. The subjects were instructed <u>not</u> to take parole into consideration when making their decision. The penalty the respondent chose, therefore, should be an indication of the penalty that he felt the defendant deserved if he/she were actually going to serve the sentence specified. Finally, the subjects were told to consider the death penalty as an option even if it was not currently a legal possibility for the type of crime described.

A brief account of the facts surrounding the case was given, followed by a description of the victim and

the defendant. In the pilot study only two penalties were presented for the respondents to choose from. The two choices were sentencing the defendant to five to fifteen years in prison or assigning the death penalty. It became obvious that these two choices were not satisfactory because they did not cover a wide enough range. Although the respondents were asked to choose the penalty that they felt was <u>most</u> appropriate, the penalties that many respondents felt was appropriate under the circumstances described in the cases, were not there to choose from. In the major study, therefore, four penalties were delineated for the respondents to choose from. The lightest penalty was five to ten years imprisonment, followed by ten to twenty, twenty years to life imprisonment, and finally, the death penalty. The response categories were given a value of one to four respectively. Respondents were instructed to choose the penalty that they felt was <u>most</u> appropriate for the crime committed. It was assumed that even if the penalties were slightly more severe or less severe than the respondent would have chosen if given other alternatives, a penalty that approximated what they would choose would be included.

PROCEDURE

In the major study, the questionnaires were administered to a total of 302 people from the southwestern area of Texas. The sample was composed of people with a wide age and educational range. Included were high school students and faculty members, college undergraduates, graduate students, and also people with occupations outside of the educational arena. The undergraduate college students included not only the "typical" eighteen to twenty-one year old, full-time student, but also students taking off-campus courses and night courses. These people are older and usually are employed, thus distinguishing them from the usual college student. The researcher has attempted to include people of diverse educational, occupational, religious, and ethnic backgrounds covering a wide age range in an attempt to go beyond the ordinary college student sample with the inherent biases and problems.

Approximately the same number of each of the four different questionnaires were distributed. The questionnaires were color-coded on the back in order to separate the responses to the different questionnaires. Because the appearance of the questionnaires was identical, the subjects were not aware that they were completing different questionnaires. The questionnaires were later separated into four

groups based on the color codes and were given identification numbers indicating which condition the questionnaire described.

DATA ANALYSIS

An index of the severity of the penalty was created by adding together the values of the responses (1-4) to the four murder cases. The number assigned to each respondent on the basis of the severity of the penalties chosen is referred to as the mean severity score. The hypotheses were tested with a T-test comparing the difference in the mean scores of responses. Two subscales were created, one for responses to black victims and defendants and one for white victims and defendants.

RESULTS

Because the sample was neither random nor representative, the reader is cautioned in interpreting the findings and in trying to apply them to the general population. About two-thirds of the 302 respondents were female. The age of the respondents ranged from under twenty to over sixty (see Table 1). The large majority of the sample was Anglo, with the remainder belonging to ethnic minorities (see Table 2). Generally speaking, the respondents were fairly religious; responses to the religious orientation questions revealed that the vast majority of the respondents believed in a Supreme Being or in God.[1] The level of education covered the range from no high school diploma to post graduate work, master's or Ph.D. (see Table 3).

The first hypothesis "Crimes committed against attractive victims will be more severely punished than crimes committed against unattractive victims," was not supported by the data. A comparison of the mean Severity scores for attractive and unattractive victims indicated that penalties are more severe when the victim is attractive than when the victim is unattractive (see Table 4). Although the mean for attractive victims is slightly higher than the score for unattractive victims, the difference of the two means are not statistically significant ($p > .05$).

Table 1. Age Range of Respondents

Age	N	Percent
Under 20	72	24.0
20-29	112	37.3
30-39	50	16.7
40-59	61	20.3
60 & over	5	1.7

Table 2. Ethnicity of Respondents

Ethnicity	N	Percent
Anglo	240	83.3
Black	15	5.2
Mexican-American	33	11.5

Table 3. Level of Education of Respondents

Level of Education	N	Percent
Have not completed high school	56	18.7
Completed high school	30	10.0
Some College	88	29.3
Bachelor's Degree	46	15.3
Post Graduate, master's, Ph.D.	80	26.7

Table 4. Mean Severity Scores for Attractive and Unattractive Victims

Attractive Victims	Unattractive Victims
10.1	9.6

P > .05

The first hypothesis, therefore, was rejected.

The second hypothesis, "Crimes committed by attractive defendants will be less severely punished than crimes committed by unattractive defendants," was tested in the same way. The mean Severity score for attractive defendants was lower than the mean Severity score for unattractive defendants (see Table 5). The T-test run on the two mean scores revealed that the differences between the means was statistically significant (p. .05). The second hypothesis was supported.

A test was also run to explore the possibility of an interaction effect of the characteristics of the victim and the defendant on the severity of the penalty chosen. The mean Severity score for cases in which the victim and the defendant were both attractive was lower than when an attractive victim was murdered by an unattractive defendant, as would be expected. The highest mean Severity score occurred when an unattractive defendant killed an attractive victim. The lowest mean Severity score was assigned in the cases involving an unattractive victim and an attractive defendant (see Table 6). An analysis of variance of the severity of the penalties assigned among the combinations of the attractiveness of victim and defendants was run. There were no significant differences resulting from the interaction of the characteristics of the victims and defendants.

Table 5. Mean Severity Scores for Attractive and Unattractive Defendants

Attractive Defendants	Unattractive Defendants
9.0	10.7

$P < .05$

Table 6. Mean Severity of Penalty by Attractiveness of Victim and Defendant

Victims	Defendants		
	Attractive	Unattractive	Total
Attractive	9.2	11.1	10.1
Unattractive	8.7	10.3	9.6
Total	9.0	10.7	9.9

P > .05 There is no statistically significant interaction among the variables.

The Black and White subscales that were created calculated the mean Severity score for the cases involving blacks and whites. Because there were no cross-ethnic murders, the Black, White Penalty subscales would apply to both victims and defendants. Much to the surprise of the researcher, the mean Severity score for blacks was slightly lower than the score for whites. The difference in the two mean scores was statistically significant (p. .05).

When the Black, White subscales are broken down into attractive and unattractive victims and defendants it reveals that there are no significant differences between the mean Severity score for attractive and unattractive victims of either ethnic origin (see Table 7). The difference in the mean scores of attractive and unattractive defendants, however, is statistically significant for both blacks and whites (see Table 8). These findings indicate that regardless of the ethnicity of the defendant, there is a significant difference in the mean Severity score for attractive and unattractive defendants. Attractive defendants receive more lenient penalties than do defendants who are less attractive.

To see whether a relationship exists between the ethnicity of the respondent and the severity of the penalty assigned to blacks and whites the mean Severity scores of the different ethnic groups in the sample were calculated and compared. An analysis of variance run among the ethnicity of the respondents and the mean Severity scores for blacks

Table 7. Mean Severity Scores for Attractive and Unattractive Victims by Ethnicity of Victim

	Blacks	Whites
Attractive	4.8	5.3
Unattractive	4.6	5.0
Total	4.7	5.2
	P > .05	P > .05

Table 8. Mean Severity Scores of Attractive and Unattractive Defendants by Ethnicity of Defendant

	Blacks	Whites
Attractive	4.2	4.8
Unattractive	5.1	5.6
Total	4.7	5.2
	$P < .05$	$P > .05$

and for whites revealed that there was no statistically significant difference among the severity of the penalties assigned to respondents by people from different ethnic groups. Even though the differences were not statistically significant, it appears that the penalties assigned to blacks by all ethnic groups of the sample are less severe than penalties assigned to whites (see Table 9). Regardless of the ethnicity of the defendant, Anglos assigned the harshest penalties. Mexican-Americans assigned the least severe penalties for both blacks and whites, with the severity of the penalties chosen by blacks falling in between the scores of the other ethnic groups (see Table 9).

Subscales were constructed to measure the severity of the penalty assessed for Black defendants and for white defendants. Using Pearson correlation coefficients it was found the more severe the penalty for all cases the more severe the penalty for both Blacks and Whites. The subscales for Blacks and for Whites also correlate with each other (see Table 10).

Spearman Correlation Coefficients were computed to examine the relationships among the age, level of education and religious orientation of the respondents and the severity of the penalty assigned. The results indicated that no relationship exists among these variables and the severity of the penalty assigned the defendant.

An analysis of the mean severity score assigned to all defendants by different age categories reveals that respondents

Table 9. Mean Severity Score for Black and White Defendants by Ethnicity of Respondent

Ethnicity of Respondents	N	Ethnicity of Defendants Black	White
Anglo	245	4.8	5.2
Black	15	4.7	5.0
Mexican-American	33	4.2	4.6
		P. > .05	P. > .05

Table 10. Relationships Among the Overall Severity Scale, the Black Subscale and the White Subscale

	Severity Scale	Black Subscale	White Subscale
Severity Scale	-	0.9	0.9
Black Subscale	-	-	0.8
White Subscale	-	-	-

p. .05

in the oldest age grouping, sixty and over, assigned the harshest penalties of all age categories. Breaking this down further it appears that the sixty and over age group are harsher on blacks than they are on whites. In fact, an analysis of variance among the mean Severity scores assigned to black defendants by different age categories indicates that there is a statistically significant difference in the harshness of the penalties assigned. This significant difference is probably accounted for by the severity of the penalties assigned by the sixty and over age group (see Table 11).

No statistically significant differences were revealed on the analysis of variance run on the severity of penalty assigned by respondents with different levels of education. The severity of the penalty, however, slightly increases with each increased level of education until the highest level of education (post graduate, master's, or Ph.D.) is reached. There does not appear to be any significant differences in the penalties assigned by people with different religious orientations. Respondents who indicated that they did not believe in God or a Supreme Being and those who said they sometimes believed in God, assigned the harshest penalties.

The sex of the respondent did not seem to be related to the severity of penalty assigned. The mean Severity scores for males was only slightly higher than the mean score for females and the difference was not statistically significant.

Table 11. Mean Severity Scores Chosen for Blacks and Whites by Different Age Groups

Age Category	Mean Severity Score for Whites	Mean Severity Score for Blacks
Under 20	5.0	4.7
20-29	5.4	5.0
30-39	5.3	4.6
40-59	4.9	4.2
60 & Over	5.4	5.8
	$P > .05$	$P < .05$

Another interesting finding concerns the types of penalties assigned for each specific case. Although the characteristics of the victims and defendants varied on the four questionnaires, the overall response to the first case, involving the father who murdered his daughter, was more lenient than in any of the other cases (see Table 12 for percentage of respondents choosing each penalty for the four different cases). In all four cases, the largest percentage of the respondents chose from twenty years to life for the penalty. In the first case, however, the percentage of people choosing five to ten years was almost exactly the same as the percentage choosing twenty to life. The third case, which involved the wife who killed her estranged husband, and the fourth case, a murder taking place between two sisters, received the largest percentage of choices of the death penalty as punishment. One other thing to be noted is that in all four cases, the majority of respondents chose the penalty of ten to twenty years imprisonment or twenty years to life imprisonment. Lighter concentrations of respondents chose the two extremes of either five to ten years imprisonment or the death penalty.

The breakdown of the kinds of penalties chosen for the four offenses reveals another item of interest. Although none of the four cases included in the questionnaire were capital offenses, in all four cases at least 10% of the respondents chose the death penalty (see Table 12). Parallel to this finding is the fact that, with the

Table 12. Percentage of Respondents Choosing Each Penalty for the Four Cases

PENALTY	Case 1	Case 2	Case 3	Case 4
5-10	31.0	15.2	16.5	15.4
10-20	27.3	25.3	30.3	24.4
20-life	31.3	45.5	40.1	45.5
Death	10.4	14.1	13.1	14.7
Total	100.0	100.0	100.0	100.0

exception of the first case, less than half of the sample chose penalties ranging from five to twenty years imprisonment, which is the actual legal penalty for the crimes delineated in the Texas Penal Code (Texas Legislature Council: 1976:16).

DISCUSSION

Several interesting observations and speculations can be made from examining the findings of this study. Even though the hypothesis that crimes committed against attractive victims will be more severely punished than crimes against unattractive victims was rejected, the mean Severity score for attractive victims was slightly higher than the mean Severity score for unattractive victims. This indicates that the respondents favor more severe punishment of the defendant when the crime is committed against an attractive person than when committed against an unattractive victim, even if there was no statistically significant difference between the mean Severity scores.

The most surprising finding of the study was the discovery that the mean Severity score was lower for blacks than it was for whites. This finding implies that the respondents sentenced whites more severely than they sentenced blacks. This finding quite likely reflects the nature of the first case of the study. The case described a father killing his daughter upon discovering that she has been associating with people of whom he did not approve. The victim and the defendant in this case are black. Regardless of the attractiveness of the father or the daughter, the respondents chose the most lenient

penalties for this case than for any of the other cases described on the questionnaire. A variety of possible explanations exist for the respondents making the choices that they did.

Voluntary opinions expressed by several of the respondents pertaining to this case indicated that it was difficult to decide upon the punishment for the defendant of this case. Because of the feeling that a parent could easily be moved to extreme behavior by the actions of his/her child, respondents seemed to empathize with the defendant. In a study of the actions of the defendant as justification for penalties assigned, Izzett and Fishman (1976:287) found that defendants with a high degree of external justification for committing a crime were sentenced more leniently than defendants without real justification. In the first case of this study, the father perhaps had a motive for killing his daughter (especially under the condition where the daughter was deceitful and hard to get along with). Closely related to this idea is the concept of the "provacative victim" (Schafer, 1977:46), a victim who has in some way done something that has incited the anger or excitement of the defendant. When the associations or general behavior of the victim has instigated or contributed to the wrath of the defendant, it is conceivable that the decision of the jury will be more lenient than when the crime was not victim-precipitated.

Kalven and Zeisel (1966:243) also examined the contribution the victim makes to the enactment of the crime. In cases where the victim has been negligent or has instigated the act that resulted in the crime, the jury tends to assign a more lenient penalty than when this negligence or instigation on the part of the victim is lacking. This weighing of the victim's conduct could easily include incidents in which the behavior of the victim obviously antagonized the defendant.

Other reasons for lenient jury decisions abound. One prominent idea is that because of the nature of the case, when the defendant has for some reason killed someone he loves or is very close to, he/she has already received sufficient punishment (Kalven and Zeisel, 1966:301-2). A parent killing a child or a spouse killing a spouse in an act of passion would quite likely bring about severe feelings of remorse on the part of the defendant, which would be viewed as punishment enough for the crime committed.

Another reason for the leniency of jury decisions centers around the idea that the possible penalty or the consequences of the penalty are too severe for the crime committed (Kalven and Zeisel, 1966:306). Extralegal considerations (such as the possibility of the defendant losing his job if he goes to prison) are sometimes involved in the jurors' decisions, as well as legal considerations, such as the harshness of the penalty for a particular crime (1966:307).

This idea is further supported by Vidmar's study (1972) looking at how the number of possible alternatives for a crime affects the decisions made by simulated jurors. Based on the findings of his study, Vidmar concluded that the severity of the penalty and the consequences of the penalty may be important factors in the processing of information that takes place while jurors reach a decision (1972:217).

Case two involved the murder of a woman's boyfriend committed by the woman's ex-husband. Again, reasonable explanations exist for the respondents who chose lenient sentences for the crime of murder. Kalven and Zeisel cite speculations made by judges concerning the leniency of some jury decisions (1966:442). According to the opinion of one judge, when a lover's triangle is involved, jurors seem to be understanding of the defendant's motive.

Additional speculations made by judges concerning the reasoning behind lenient decisions in spite of the repugnance of the crime are of interest (Kalven and Zeisel, 1966:442). One case cited described a man who killed his estranged wife. Because the victim was characterized as an "inadequate" wife, the jury's sentencing of the defendant was lenient. Another case was cited in which a man stabbed his lover to death in broad daylight on a public street because she wished to terminate their intimate relationship. Again, the defendant received a light sentence. The judge speculated that because both the victim and the defendant

involved were black, the jury didn't view the crime as being as horrendous as it might have if the parties involved had been white. Whether or not this speculation is true is not known. Finally, when the victims are known to have a "bad" reputation the defendants often receive less severe penalties than when the victim is highly reputable.

In spite of the significant finding that the attractive defendant receives a more lenient penalty than does the unattractive defendant, there are some instances in which an attractive defendant does receive a harsh penalty. Sigall and Ostrove (1975) examined the effect the attractiveness of the defendant of a crime and the nature of the crime has on the jury's decision. They found that when the crime was unrelated to the attractiveness of the defendant, for example, a burglary, the attractive defendant was less severely punished than the unattractive defendant. When the crime was attractiveness-related, such as a con game, attractive defendants received a harsher penalty than did unattractive defendants (1975:413). Sigall and Ostrove speculate that the reason for this is that when an attractive person uses his/her attractiveness in a manipulative fashion, it violates the expectation of acceptable behavior for attractive people. The attractive defendant would then appear more dangerous, thus cancelling out his attractive attributes (1975:411).

An important factor that may be involved in the decision-making process of the individual jurors is the

similarity or dissimilarity of attitudes of the juror and the defendant and/or victim. Byrne (1961) found that when respondents evaluate strangers, a stranger known or perceived to have attitudes similar to the respondent will be liked more than a stranger having dissimilar attitudes. Furthermore, strangers with similar attitudes are evaluated as more intelligent and more "moral" than strangers with dissimilar attitudes (1961:714). Mitchell and Byrne (1973) examined the effect that similarity of attitudes of jurors and the defendant has on the judgment of the defendant's guilt. They found that decisions of authoritarian individuals <u>were</u> influenced by perceived attitude similarity of the defendant. Egalitarian individuals did not seem to be influenced by the attitudes of the defendants. The authors feel that their results could have important implications for the legal system. Because attitudes have been found to be fairly consistent within social classes, being tried by people of different socio-economic status, occupation, attitudes and demographic characteristics (sex, ethnicity) could have a definite effect on the verdict reached by the jury. Mitchell and Byrne conclude that "Trial by jury of attitudinally similar peers versus attitudinally dissimilar nonpeers could well result in quite different verdicts" (1973:128). This may account for the decisions reached by some jurors. When a respondent perceives the defendant to be similar to him on the basis of socio-economic status, occupation, sex, ethnicity or

some other factor, the possibility exists that his judgment will be influenced by these factors rather than being an unbiased evaluation of the facts of the case.

There are other things that need to be considered in trying to understand or analyze the penalties chosen by jurors. As pointed out by Weld and Danzig (1940:533) in their study of the individual decision-making process of juror's, different people react differently to the same testimony. In some cases the evidence presented to the simulated jurors made certain individuals more sure of the innocence of the defendant, while at the same time, it made others believe that the defendant was guilty.

Closely related to this idea is that the characteristics that constitute the idea of attractiveness for some people do not necessarily coincide with the next man's idea of attractiveness. The operational definition used by the researcher to distinguish between the attractive and unattractive victims and defendants would not be interpreted the same by all of the respondents. A person with a similar occupation and/or ethnic background to that of the victim or the defendant might perceive the attractiveness or unattractiveness of the parties involved differently than others would. The severity of the penalty chosen, therefore, might reflect a feeling of affinity in one direction or the other. In addition to occupation and ethnicity, the sex of the respondent might evoke a feeling of empathy or enmity toward the victim or defendant.

Weld and Danzig (1940:535) also report that the decisions of some jurors are more strongly influenced by their conception of what is "right" under the circumstances of the case than they are by the facts of the case. Furthermore, the reasoning of some individuals cannot be easily explained. Because the simulated jurors in the previous study or the current study were not interrogated as to how they reached their individual decisions, an accurate explanation of why they made the choices that they did cannot be offered. The authors suggest that asking the respondents to write a commentary about their judgments at each step in the trial would be a possible way to provide this information.

Past experience may also play a leading role in jury decisions. According to Asch (1910:289-90) past experience is an important contributor to impression formation. Those things that people have actually experienced are much more influential in impression formation than things they have had no experience with or have any understanding of. It is difficult for people to understand characteristics or behavior of others that they do not possess or have not encountered themselves. It would be expected that an adult who has experienced the feeling of intense anger or rage evoked by certain actions of their children or spouse would be more understanding of the acts of the defendants in the cases described than a person who has not been in this position. Likewise, people who have been involved in a

lover's triangle or have had extremely unpleasant encounters with family members or ex-spouses (and perhaps have almost committed the same act as the defendant), would perceive the cases differently than people who have not been in the same situation.

One final thing deserving mention is that many juror decisions are made at a very early stage of the trial, irregardless of additional testimony and evidence that might be presented which should have an effect on the verdict. Stone (1969) conducted a study which varied the order of the presentation of the testimony to explore whether presenting the defense or prosecution first had an effect on the verdicts reached. The findings indicated that it did not matter which side presented its case first. Those people who had decided after the first step of the experiment that the defendant was innocent acquitted the defendant. Those who had decided that the defendant was guilty convicted him. This indicates that decisions are made early in the trial, before all facts are presented (1969:247). This is consistent with Weld and Roff's findings in their study (1938:628) of opinion formation based on the evidence presented in a trial. The results indicated that the juror's decision is made almost immediately after the defendant's plea of guilt or innocence and it does not take a long period of deliberation to reach a decision. Weld and Danzig (1940:535) also found that a relatively definite judgment of the guilt or the innocence

of the defendant is made near the beginning of the trial. Remaining testimony only seems to change their degree of certainty.

The findings of these studies strongly suggest that decisions made by jurors are not based solely upon the facts of the case. The view that emerges is that there are a variety of factors which contribute to the verdicts reached or penalties assigned to defendants of crimes. Empathetic feelings for either the victim or the defendant because of past experiences similar to the circumstances contributing to the commission of the crime can affect the decision of the juror. Corresponding with this idea is the notion that the personality of the victim or defendant, as perceived by the jurors, is a contributing factor to the impressions formed, and ultimately the decisions made, by the jurors. Perceived similarity of attitudes of the jurors and the parties involved in a criminal case also Affect the judgments made. It becomes apparent that the first impression formed by jurors because of these factors structures the foundation upon which final decisions are made. Feelings regarding the severity of the punishment and the effects that the penalty will have on the defendant, as well as personal reactions to what is "right" or "moral," also contribute to juror decisions.

Closer examination of some of the findings of the study permits more meaningful conclusions to be drawn than the initial perusal allows. The analysis of variance run

on the ethnicity of the respondents and the mean Severity scores for blacks and whites, indicated that people from different ethnic groups were not significantly more severe on defendants from ethnic backgrounds different than their own. The percentage of blacks and Mexican-Americans, however, was so small that it is reasonable to believe that the results might be altered if more of the respondents had been non-Anglos. A comparison of the mean Severity score for Blacks and/or Mexican-Americans with the mean scores for whites might reveal a significant difference, if there were more non-white respondents. It is the assumption of the researcher that whites would issue harsher penalties for non-whites than for whites and that the converse would be true for non-whites. Combining the responses of blacks and Mexican-Americans into one category could have possibly produced a significant difference in the mean score of whites and nonwhites. A previous study by this author examining the attitudes toward capital punishment revealed, however, that the attitudes held by Mexican-Americans were almost exactly the same as those held by whites. Based on this prior finding, the conclusion was reached that it would be fallacious to combine the responses of Mexican-Americans with the responses of blacks.

Another misleading finding of the current study is the statistically significant correlation found among age categories and the severity of penalty chosen by respondents.

This significant difference is accounted for by the severe penalties that were assigned by the sixty and over age category. This finding is questionable, however, because there were only five people (1.7%) falling into this age classification.

A breakdown of the four different cases of the study educes some interesting discoveries. The four cases used in this study, although consistently referred to as "murders" throughout this paper, technically would be classified as voluntary manslaughter. Stuchiner (1953:23) defines manslaughter as a killing "committed without malice and in the heat of passion upon adequate provocation." Voluntary manslaughter, as described in the 1975 amended version of the Texas Penal Code (Texas Legislative Council, 1976:20) classified voluntary manslaughter as a second degree felony. According to the same source (1976:16) second degree felonies are punishable by "not more than twenty or less than two years" imprisonment. It is interesting and perhaps enlightening to note that in all four cases <u>at least</u> 10% of the respondents issued the death penalty. With the exception of the first case, less than half of the respondents chose one of the two penalties that correspond with the actual penalty prescribed by the penal code of Texas. These findings definitely lend support to the findings of Johnson (1957), Rose and Prell (1955), and Gibbons (1969) which suggest that the punishment delineated by penal codes and the

penalties that many people feel are appropriate, are not always in accordance.

COMMENTS

The researcher of this study attempted to surpass the limitations inherent in the frequently and over-used college student sample. This was done by including people in the sample who covered a wide age range and a variety of levels of education, as well as including people with occupations other than that of full-time student. The sample was not, however, either randam or representative of the general population.

Because of the nature of the way in which the data were collected, it would be difficult to assess how closely the behavior of the respondents, if placed in an actual courtroom situation, would correspond to what their responses indicate they would do. The responses to the questionnaires used in this study are only an indication of the attitudes the sample has concerning the severity of the penalty they consider appropriate for the crimes described. This experiment is only a simulated juror situation and is by no means an infallible predictor of what would actually take place in a courtroom. Furthermore, simply reading the descriptions of the parties involved in a case is much less impersonal and conceivably would have a much-reduced

impact on the respondent than actually seeing the defendant and victim or hearing the accusations of both the defense and prosecuting attorneys. Weld and Danzig (1940), using a moot court trial to examine the dynamics of courtroom proceedings, found that both the opening and closing statements of the lawyers were influential in the verdict reached by jurors. (1940:536). It also seems that a juror would be more strongly influenced by the social and personal characteristics of the people involved in a crime if he came into visual contact with them.

In the course of administering the questionnaires to the sample, several comments by respondents were made concerning the fact that, basically, all the cases were alike. All four of the cases used in the study were what are commonly referred to as "acts of passion." Some respondents felt that using only crimes of passion was, in effect, overlooking several categories of murder. The respondents did not know, however, what the main intent of the study was. In order to test the hypotheses, which predicted differential treatment of defendants on the basis of the attractiveness of the victims and the defendants, it was necessary to use cases in which it would be possible to describe a defendant in attractive terms as well as in unattractive terms. Because the stereotyped impression of a criminal

is far removed from the stereotype of an attractive person, it was a difficult task to find crimes which would allow for an attractive description of the defendant. In the preface of his book Crime of Passion Derick Goodman (1958:10) points out that these kinds of crimes do not usually elicit the death penalty from the jury or the judge. Goodman strives to point out that there are justifiable motives for the commission of crimes of passion. Because people do excuse the act of killing other humans in the event that there is acceptable motivation, using crimes of passion seemed the only route to take in constructing the questionnaire. The author fully realizes and admits that the cases used only touch upon the broad variety of homicides that exist.

The limited time, money, and access to resources necessary to organize a moot court trial, resulted in the reliance upon a questionnaire for the collection of the data for the study. The advantages to using a moot court trial have already been acknowledged. Regretfully, this possibility did not present itself.

Another factor to be considered when using a questionnaire rather than a real or moot court trial is that the respondents do not have the chance to discuss the facts of the case or the individual verdicts they

have reached. This problem could be alleviated. If the respondents are asked to reach and record an individual decision, and then announce their decisions to a group, along with an explanation of why they reached the decision they did, this would resemble the procedure implemented in a normal trial. Izzett and Leginsh (1974:276) used this procedure and concluded that allowing jurors to discuss their verdicts could possibly make a significant difference in the final penalty assigned.

SUGGESTIONS FOR FUTURE STUDIES

If the research design of this study were used in future studies, some minor modifications would need to be implemented. If a moot court trial could not be organized, several possibilities exist to compensate for this. First of all, as previously mentioned, the respondents could discuss their original verdicts with a group of simulated jurors. Secondly, or as an alternative to giving a verbal justification of the verdict to a group, each respondent could be personally interviewed after completing the questionnaire. Another possibility would be to have the respondents write a statement or commentary describing why they reached the decision that they did. Any of these steps could provide possible answers to <u>why</u> people assign different penalties for the same crime. What better way to obtain this information than receiving it directly from the horse's mouth?

Although it would be more expensive for the researcher and more time-consuming on the part of the respondents, using more than two cases that involve blacks and whites would make it possible to see if the ethnicity of the victims and defendants influence the decisions of jurors. Including more ethnic minority members would make a comparison of the mean Severity score of different ethnic groups more meaningful also. In a similar vein, larger numbers of people in all age categories would enable the researcher to further investigate the relationship of age with the severity of penalties chosen.

It would be interesting to investigate in future studies whether or not the occupation of the respondent and the occupation of the victim and/or defendant has an influence on the severity of the penalty assigned. The current study did not gather information on the occupation of the respondent, but it could easily be done in the future.

SUMMARY

This study examined the contributing effects that the characteristics of victims and defendants of crimes have on the severity of the penalty assigned to the defendant. Simulated jurors read accounts of four manslaughter cases and chose one of four penalties that they felt was most appropriate for the crime committed.

The findings of the study indicate the following:

1. When the defendant of a crime is attractive, the penalties the jurors assign are more lenient than when the defendant is unattractive. This difference is statistically significant.

2. People assign slightly harsher penalties for defendants when the victim is attractive than when the victim is unattractive. The difference, however, is not statistically significant.

3. There does not appear to be an interaction effect between the characteristics of the victim and the defendant, in regards to the severity of the penalty assigned for different combinations of attractive and unattractive victims and defendants.

4. Generally speaking, people choose harsher penalties than are currently possible according to the Texas Penal Code.

FOOTNOTES

1. The scale used on the questionnaire to determine the religious orientation of the respondents was the Religious Orthodoxy Scale (Glock and Stark, 1965).

APPENDIX

his questionnaire is part of a study examining the penalties possible or murder. As you read the descriptions of the following four murder ases, assume that you are a member of the jury deciding upon the enalty for each individual case. The defendant in each case is guilty eyond doubt; therefore, the only problem at hand is deciding the enalty. Do not consider parole an option, however the death penalty is possibility even in cases that are not currently legally punishable / death. Please choose the penalty which is closest to what you feel s appropriate punishment for the crime described. Please do not put our name on the questionnaire. Record your answers on the answer heet provided.

1. Sex
   (1) Male
   (2) Female

2. Age
   (1) under 20
   (2) 20 - 29
   (3) 30 - 39
   (4) 40 - 59
   (5) 60 and over

3. Ethnic Origin
   (1) Anglo
   (2) Black
   (3) Mexican-American
   (4) Other

4. Level of Education
   (1) did not complete high school
   (2) completed high school
   (3) some college
   (4) received Bachelor's degree
   (5) post graduate, Master's degree, PhD. or beyond

5. Religious Orientation
   Which of the following statements comes closest to expressing your religious beliefs?
   (1) I don't believe in God or a Supreme Being.
   (2) I don't know whether or not there is a God or a Supreme Being, and I don't believe there is any way to find out.
   (3) I don't believe in a personal God, but I do believe in a higher power of some kind.
   (4) I find myself believing in God some of the time, but not at other times.
   (5) I know that God really exists and I have no doubts about it.

Please read the following four cases and indicate the penalty that you feel is most appropriate in each of the cases and record your answer on the separate answer sheet.

Case # 1

Mr. James Patterson discovered that his daughter, Carol Patterson, had become involved with people of whom he did not approve. Patterson confronted his daughter with his knowledge of her associations and expressed his disapproval. Patterson and his daughter became involved in a heated argument and Mr. Patterson shot and killed her.

Victim

Carol Patterson was a pretty, outgoing eighteen year old black female. She was a pre-law student who was attending college on an academic scholarship. Carol was very friendly and easy-going and had never before associated with friends that her parents had reason to disapprove of.

Defendant

James Patterson is a forty year old black male. Patterson is a successful businessman who is very well-liked by his employees and the people in the community. He has been a generous and loving father and husband and has provided his family with everything they have ever needed. Mr. Patterson had always been concerned about the well-being of his daughter and tried to be aware of what and whom she was involved with.

ecord your answer on # 6 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years - life imprisonment.
4) Sentence defendant with the death penalty.

Case # 2

Robert and Marsha Wallace had been married five years and had two children when they divorced because of incompatibility. Mrs. Wallace had been dating another man for six months when her husband came by to discuss child support. Upon finding his wife and her boyfriend, Carl Owen, together at her place of residence, Mr. Wallace shot and killed the third party.

Victim

Carl Owen was a thirty-seven year old white male. Owen was a physician who was actively involved in the community and was well-liked by his associates and patients. A highly respectable man, Mr. Owen hoped to eventually marry Mrs. Wallace and adopt the two children.

Defendant

Robert Wallace was a thirty-five year old white male. Wallace was a college professor who had published several books and was considered an authority in his field. A loving father, he had consistently paid child support and still loved his wife inspite of their differences.

ecord your answer on # 7 of the answer sheet.
.) Sentence defendant to 5 - 10 years in prison.
) Sentence defendant to 10 - 20 years in prison.
.) Sentence defendant to 20 years - life imprisonment.
.) Sentence defendant with the death penalty.

Case # 3

David and Shirley Roberts, an estranged couple who had mutually decided to separate for a few months, agreed to have dinner together to discuss possible reconciliation. During the supper conversation an argument arose and Mrs. Roberts shot and killed her husband.

Victim

David Roberts was a thirty-nine year old black male. Roberts was a prosperous lawyer who had been unsuccessfully trying to make amends with his wife. He had continued to financially support his wife even after the separation.

Defendant

Shirley Roberts was a thirty-two year old black female. Mrs. Roberts was described by her employer as intelligent, responsible, and cheerful. Although her once bitter feelings for her husband had changed, she felt that it would be best if they postponed the reconciliation a little longer.

ecord your answer on # 8 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years - life imprisonment.
4) Sentence defendant with the death penalty.

Case # 4

Cheryl and Catherine Winslow were the only two daughters of Charles Howard Winslow. When the two girls were informed by their father that he had a severe heart condition, they discussed the impact this would have on their future. Cheryl Winslow, the younger daughter, had received an offer for a part in a movie that would take her a long distance from home. Mr. Winslow personally disapproved of her career choice, but told her to do what she wanted. Catherine Winslow, the older daughter, accused her sister of magnifying their father's condition. In the argument that resulted in the Winslow home, Catherine pulled a gun on her sister and shot and killed her.

Victim

Cheryl Winslow was a twenty-five year old white female. She was an extremely talented musician and actress. She had studied drama in college and was enrolled in acting school at the time of her death. Cheryl was Winslow's youngest daughter and the two of them were very close. Because of her affectionate relationship with her father, Mr. Winslow had not let her know of his fear of her long-range success. Cheryl was unaware of her father's disapproval or would have reconsidered her future goals.

Defendant

Catherine Winslow was a thirty-five year old white female. She was an accountant employed by her father's own company. Catherine had been a responsible industrious worker for ten years. She had great respect and concern for her father. She was aware of his anxiety about her sister's choice to take the part and wanted to try to change her mind.

ecord your answer on # 9 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years - life imprisonment.
4) Sentence defendant with death penalty.

This questionnaire is part of a study examining the penalties possible for murder. As you read the descriptions of the following four murder cases, assume that you are a member of the jury deciding upon the penalty for each individual case. The defendant in each case is guilty beyond doubt; therefore, the only problem at hand is deciding the penalty. Do not consider parole an option, however the death penalty is a possibility even in cases that are not currently legally punishable by death. Please choose the penalty which is closest to what you feel is appropriate punishment for the crime described. Please do not put your name on the questionnaire. Record your answers on the answer sheet provided.

1. Sex
   (1) Male
   (2) Female

2. Age
   (1) under 20
   (2) 20 - 29
   (3) 30 - 39
   (4) 40 - 59
   (5) 60 and over

3. Ethnic Origin
   (1) Anglo
   (2) Black
   (3) Mexican-American
   (4) Other

4. Level of Education
   (1) did not complete high school
   (2) completed high school
   (3) some college
   (4) received Bachelor's degree
   (5) post graduate, Master's degree, PhD. or beyond

5. Religious Orientation
   Which of the following statements comes closest to expressing your religious beliefs?
   (1) I don't believe in God or a Supreme Being.
   (2) I don't know whether or not there is a God or a Supreme Being, and I don't believe there is any way to find out.
   (3) I don't believe in a personal God, but I do believe in a higher power of some kind.
   (4) I find myself believing in God some of the time, but not at other times.
   (5) I know that God really exists and I have no doubts about it.

Please read the following four cases and indicate the penalty that you feel is most appropriate in each of the cases and record your answer on the separate answer sheet.

Mr. James Patterson discovered that his daughter, Carol Patterson, had become involved with people of whom he did not approve. Patterson confronted his daughter with his knowledge of her associations and expressed his disapproval. Patterson and his daughter became involved in a heated argument and Mr. Patterson shot and killed her.

Victim

Carol Patterson was an eighteen year old black female. She had dropped out of high school at the age of fifteen and was still living at home. Although she was not employed, she did little to help around the house. Carol was very deceitful when telling her parents where or with whom she spent her leisure time. She had been arrested for one case of shoplifting and acquaintances reported that she associated with drug-users.

Defendant

James Patterson is a forty year old black male. Patterson is a truck driver and is described as being very strict and authoritarian. He tried to closely supervise everything his daughter did and disapproved of anyone who did not come from a highly respectable family. His only prior arrest record was for two accounts of drunk and disorderly conduct.

ecord your answer on # 6 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years - life imprisonment.
4) Sentence defendant with the death penalty.

Case # 2

Robert and Marsha Wallace had been married five years and had two children when they divorced because of incompatibility. Mrs. Wallace had been dating another man for six months when her husband came by to discuss child support. Upon finding his wife and her boyfriend, Carl Owen, together at her place of residence, Mr. Wallace shot and killed the third party.

Victim

Carl Owen was a thirty year old white male. Owen was an unemployed dock worker and had been living with Mrs. Wallace for six months, primarily for financial support. He disliked the two children, but tolerated them to stay in the good graces of Mrs. Wallace.

Defendant

Robert Wallace was a thirty-five year old white male. Wallace worked at a factory assembling stereo equipment. He frequently drank too much and missed work several times a month. He had gone as long as three months at a time without paying child support. He seldom if ever visited his family and fought with his wife on the occasions when they saw each other.

ecord your answer on # 7 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years - life imprisonment.
4) Sentence defendant with the death penalty.

Case # 3

David and Shirley Roberts, an estranged couple who had mutually decided to separate for a few months, agreed to have dinner together to discuss possible reconciliation. During the supper conversation an argument arose and Mrs. Roberts shot and killed her husband.

Victim

David Roberts was a thirty year old black male. Roberts was a construction worker and although he had a substantial income, he seldom brought home much more than what was needed to pay the rent and the bills. Roberts was a hot-tempered man and had made several threatening phone calls to his wife during their separation.

Defendant

Shirley Roberts was a thirty-two year old black female. Shirley was a waitress in a local restaurant and was involved with various regular male customers there. Inspite of her husband's pleading for her to come back, Mrs. Roberts was indifferent and sometimes hostile toward her husband.

ecord your answer on # 8 of the answer sheet.
1) Sentence defendant to 5 - 10 years in prison.
2) Sentence defendant to 10 - 20 years in prison.
3) Sentence defendant to 20 years to life imprisonment.
4) Sentence defendant with death penalty.

Case # 4

Cheryl and Catherine Winslow were the only two daughters of Charles Howard Winslow. When the two girls were informed by their father that he had a severe heart condition, they discussed the impact this would have on their future. Cheryl Winslow, the younger daughter, had received an offer for a part in a movie that would take her a long distance from home. Mr. Winslow personally disapproved of her career choice, but told her to do what she wanted. Catherine Winslow, the older daughter, accused her sister of magnifying their father's condition. In the argument that resulted in the Winslow home, Catherine pulled a gun on her sister and shot and killed her.

Victim

Cheryl Winslow was a twenty-five year old white female, She was a drama student at the local university and had been in drama in high school and she believed herself to be much more talented than most people considered her to be. She had been spoiled by her father and believed that she could change her father's mind, especially since she thought she was her father's favorite and had been able to manipulate him several times in the past.

Defendant

Catherine Winslow is a thirty-five year old white female. She is a hairdresser and her customers and others have long known that she holds a grudge against her sister. Jealous of the obvious favoritism her father shows for his youngest daughter, Catherine often voiced her disapproval of anything her sister did and tried to cause problems between her father and sister.

cord your answer on # 9 of the answer sheet.
) Sentence defendant to 5 - 10 years in prison.
) Sentence defendant to 10 - 20 years in prison.
) Sentence defendant to 20 years - life imprisonment.
) Sentence defendant with death penalty.

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