

**PUBLIC PUNITIVENESS AND OPINIONS  
ON JUST DESERTS: AN EXPLORATORY  
STUDY**

by

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## SUMMARY

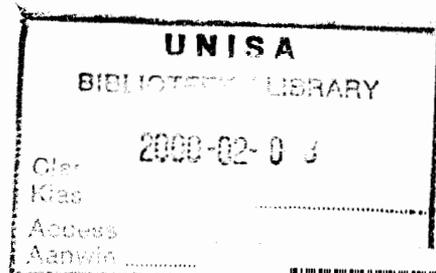
In the light of a more punitive stance in Corrections and public discontent with the criminal justice system, a number of studies have been conducted since 1970 testing public punitiveness, probably in an attempt to determine whether sentences laid down by courts are in line with public perceptions on just deserts.

This study combines two scales: The first a Likert scale measuring punitiveness as such and the second a "Just Deserts" scale testing public reactions in terms of imprisonment for crime descriptions.

By using Pearson's correlation, no positive correlation could be established between these two scales. Profiles of the top and bottom 15% scorers on both scales showed that the scales were, if anything, negatively related.

This information is informative in the sense that opinion polls showing public discontentment with sentencing cannot be seen as a true reflection of their reactions to more descriptive cases.

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# CHAPTER 1: ORIENTATION

## 1.1 Introduction

What the public thinks about important aspects of government has become a major topic in the media today. Since the first Gallup polls were conducted in the United Kingdom in 1937 (Walker & Hough 1988:1), politicians and journalists have shown a keen interest in what inferences can be drawn from public opinions on aspects such as the popularity of political leaders, policy matters and the crime problem. Politicians wanting to justify particular political stances likewise rely on public opinion statistics to demonstrate that their proposals are in line with public opinions (Durham 1993:2).

Criminologists, sociologists and law scientists have, in the meantime, also started to realise the importance of public opinions for their respective fields of study. From the 1970's, in particular, a growing body of literature has concerned itself with the question of public punitiveness. Questions such as: "What do you think should be the main reasons why we punish offenders?" and "How much punishment do offenders deserve?" characterise this field of study. Of course, as mentioned by Rossi, Simpson & Miller (1985:60), public opinion is not the "...sole and supreme master of the criminal justice system...", some of the other influences being the legal tradition, the capacity of the criminal justice system to process cases and absorb all offenders, etc. Public perceptions on punishment is, however, one of the more important influences on the criminal justice system

(Harlow, Darley & Robinson 1995:73). As courts are provided with the coercive power to punish by the community in which they figure, public punitiveness constitutes, in a democratic sense, justice itself (Brillon 1988:84).

## **1.2 Problem Statement/Practical Relevance**

The problem statement and practical relevance of this study are discussed simultaneously because they deal with the same issues. A more detailed discussion on the importance of punitiveness from a penological standpoint can be found in chapter two.

### **1.2.1 The problem in a South African context**

Since the African National Congress came to power in 1994, one of the main concerns regarding the functioning of the criminal justice system has been the perceived gap between the public and the criminal justice system in terms of accessibility and representation. This can probably be ascribed to a long phase in our history during which the norms and values of the majority of our population have received scant attention in the administration of justice. This is aggravated by, as it is called in Issue Paper 7 of the South African Law Commission: "Public perceptions about a breakdown in the criminal justice system" (1997:3.7).

Since 1994, various proposals have been put forward on ways to present members of the public with more representation in the justice system (such as community courts, the use of public assessors in courts and victim impact statements) and to improve the access of

disempowered groups to the criminal justice process (National Crime Prevention Strategy 1996:9).

## **1.2.2 The need to determine public opinions**

The crucial question, however, is *what* exactly it is that the public wants? If South Africa claims to be democratically orientated it is important that public opinions on justice, and specifically just deserts, not be disregarded when new structures are established. There is a certain connection between public perceptions and court verdicts (which is also applicable to other functions of the criminal justice system) in the sense that people expect sentences handed down by courts to be representative of their basic perceptions of justice (Harlow et al. 1995:73, Ashworth & Hough 1996:780). According to Roger Hood (1962:17):

"The sociological theories of punishment rest upon the assumption that punishment for crimes should be related to the moral conscience of the community on whose behalf it is being inflicted. Unless the aims of punishment take into account the sensibility of the community, the penal system will not serve one of its primary functions, that is, to maintain communal stability."

When people perceive sentences handed down as too lenient, they normally interpret it as an unwillingness or inability of the authorities to maintain justice. According to Harlow et al: "...penal system practices should be in accord with community views because the community is not likely to stand for them if there exists widespread sentiment that criminals are not receiving their just deserts (1995:73)." Anthony Minnaar (1995:10) makes the following remark

with regard to the South African situation: "...people have lost all confidence in the ability of the state to prosecute criminals effectively."

These perceptions, and the necessity to protect oneself from the negative effects of crime, may in some instances even lead to violent public reactions (Harlow et al. 1995:73). According to judge J.A. Schreiner (in S. v. Korg):

"...It is not irrelevant to bear in mind that if sentences for serious crimes are too lenient, the administration of justice may fall into disrepute and injured persons may incline to take the law into their own hands. (1961:236)."

This danger has shown itself to be real and recent vigilante actions by groups such as PAGAD, "Mapogo a Mathamaga" in the Northern Province, and other phenomena such as people's courts (Minnaar 1995:10) are examples of such extreme reactions.

### **1.2.3 Need for the judiciary to know**

This frustration is not limited to the public. Politicians and members of the judiciary also express the need to know just how punitive the general public really is (Sebba & Nathan 1984:221, Ashworth & Hough 1996:780, Durham 1993:2). According to Walker & Hough (1988:1):

"In theory the severity and proportionality of tariffs<sup>1</sup>

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<sup>1</sup> Tariff sentencing refers to a system whereby the seriousness of specific crimes, as

are determined by legislatures and judiciaries; but in practice both have an eye on the audience; in this case, the audience is not the man in the court but the man in the street."

This need for information on public punitiveness can be ascribed to two recent developments:

- The re-emergence of the classical school's assumptions about punishment during the last three decades: that punishment should be based on the nature of the crime rather than on rehabilitating the offender<sup>2</sup>. Whereas the need for public opinions regarding just deserts have been deemed unnecessary by the positivists - because the time served by an offender is determined by his or her rate of rehabilitation and not by what he necessarily deserves - the ideas of the classical school call for a predetermined punishment that fits the offence. Legislators and members of the judiciary now find themselves unsure about just how punitive the general public is and what precisely constitutes "fair punishments" in the public mind (Ashworth & Hough 1996:780).

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inferred from the type of crime and the number of previous convictions, are predetermined by legislature and represented by categories on a grid. The role of courts in this respect is to determine guilt and to sentence offenders according to such prescriptions. Mitigating and aggravating circumstances play a minor role, and sentencing officials are usually restricted to a ten percent deviation from prescribed sentences depending on the circumstances. Mandatory minimum sentences, that have recently been introduced in South Africa, can be seen as a form of tariff-sentencing.

<sup>2</sup> This issue is discussed in more detail in chapter three.

□ A sharp rise in crime rates world-wide also led to a decrease in public tolerance with the way in which criminal justice systems function. Public insistence that "something be done about crime" - which often manifests itself in political and other pressure groups - necessitates legislators to rethink the aims and functions of criminal justice. The result is that democratic governments are compelled to take public opinions into account, even if their only motivation is to survive politically.

On the area of criminal justice there is a tendency to make assumptions about the nature of public opinions on various issues (Schur 1973:10, Ashworth & Hough 1996:779). Typical South African examples are:

- The verdict by Judge J. Munnik in *S. v. Whitehead* (1970): "Society demands that the death of one of its members be avenged;" and in
- *S. v. Du Preez* (1972) where the judge refers to "public indignation" about the crime.

In view of a lack of scientific studies on the extent and nature of public punitiveness, however, the question arises what changes or decisions are truly within the democratic will of the people? As mentioned by Ashworth & Hough (1996:780): "What do we know about the public's understanding of, and opinions on, sentencing?" In South Africa, studies of black people's opinions on just deserts could enable sentencing officials and other functionaries in the criminal justice system to make decisions that are, at least, more informed and fairer toward everyone.

## 1.3 Problem formulation

From the above, the first goal of this study could be established, which is to determine the extent of punitiveness amongst the public. To be able to say that people are punitive, however, would be of limited value to researchers and practitioners alike. More important is to determine *what* this punitiveness means.

Apart from the positivistic contention that the criminal justice system would be better served by rehabilitating people instead of punishing them, punishment (or retribution) has also been severely criticised by some social scientists on the ground that it constitutes, according to their opinion, nothing more than disguised vengeance (Tappan 1960:242, Reid 1976:496). According to advocates of retribution, on the other hand, punishment handed down by the state should rather be seen as a calculated response to crime, making the punishment fit the crime (Bartollas & Conrad 1992:117-119).

This study explores the nature of punitiveness in this regard, distinguishing between its "revengeful" and "calculated" sides. Methodologically spoken, two scales are devised: one measuring punitiveness as such (in other words the extent to which people wish negative consequences to be applied to offenders), and the second consisting of calculated responses to crime descriptions. It is anticipated that a comparison between these two scales may be able to tell us more about the way in which the public thinks.

### 1.3.1 Determining punitiveness

In the problem statement (section 1.2) some of the reasons for determining public punitiveness were mentioned. At a glance this

seems a relatively simple task: one could just ask people how serious they think different crimes are and what punishments would fit each. As with most uncomplicated suppositions in the human sciences, however, this question proves to be quite complex, with a legion of provisions, suppositions and problems in limiting the field of study and obtaining valid findings.

Some of the requirements facing the researcher on this terrain of study are:

- Defining punishment, punitiveness and just deserts, not so much according to what the researcher theoretically interprets them to be, but according to their (often multi-faceted) impression in the public mind;
- devising scales and methods to determine punitiveness (which can easily be the result of one's own interpretation of the concept and may not necessarily reflect public opinions);
- in conjunction with the previous point, attempting to avoid respondent influencing as a consequence of questionnaire construction;
- the question of how much or how little information to give the public when describing crimes - too little information contains the danger of open interpretation whilst too much information limits the representativeness of the crime described; and
- interpretation of the findings, where ecological fallacies and reductionist faults may be committed.

In determining punitiveness it is therefor important that:

- Literature on the subject be consulted to a sufficient extent - to

determine what findings have already been obtained, what the limitations are, and what dangers of reduction present themselves;

- questions be devised that give respondents the opportunity to explain their choices; and
- findings are properly evaluated.

An important facet that must be taken into account when determining punitiveness is that public opinion polls with regard to punitiveness can never fully simulate the decision-making task facing judges (Thomson & Ragona 1987:337). Whereas studies such as this have at heart the question whether sentences handed down by the courts are in line with what the public perceives to be just deserts (Walker, Hough & Lewis 1988:181), the only viable way in which direct comparisons between these two aspects could be made would be to physically put a respondent in the shoes of the sentencing official. Such a setup is practically impossible, however, because not only would it require the physical presence of respondents at court cases (so that the same physical and psychological conditions would apply equally to both sides), but also that all relevant information the sentencing official has to his or her disposal - including procedural knowledge, judicial statistics, directions from the Appeals Court, and all the literature on sentencing (*Ibid.*, p.182) - be equally known to respondents as it does to sentencers. Studies of this kind subsequently focus rather on aspects relating to the logical structure of the punitiveness phenomenon than on drawing direct comparisons.

### 1.3.2 Metatheoretical assumptions

A few suppositions are accordingly made in this study to aid in its demarcation:

- That perceptions about just deserts rest on logical grounds: taking into account a number of factors and mentally calculating them to come to a conclusion;
- that punitiveness is a subjective process, resting on factors such as past experiences, cultural factors, external influences (for example the media), and the situation in which the offender finds him or herself;
- that the public is generally discontented with the functioning of the criminal justice system and that people want the courts to lay down severer sentences (in particular imprisonment) to criminal offenders; and
- that this discontentment with sentences laid down by the courts are, to a large extent, the consequence of cynicism (perceptions that courts hand out either insufficient or disparate sentences for similar crimes).

According to Bailey (1982:19), it is also important for the researcher to mention the paradigm (the model or school of thought with which he or she identifies) within his or her subject field. It should accordingly be mentioned that the writer is a supporter of the Justice Model in penology, which holds that - for punishment to be fair - sentences should be based on the nature of the crime committed and not, as the positivists argue, on the reformability of the offender (Bartollas 1985:41-56).

### **1.3.3 Demarcation of the study**

The limits of the study terrain can be set as follows:

#### **1.3.3.1 Concept demarcation**

##### ***1.3.3.1.1 Public opinion***

*Public opinion* in this study is used in the sense as defined by The American Heritage Dictionary: "The common, usual, or prevailing feeling or sentiment: public opinion (1969:921)." It is therefore usually not based on any educated or specialised knowledge, but rather reflects the broad public's perceptions about how things should be.

##### ***1.3.3.1.2 Punishment***

In essence, this study concerns itself with punishment and the punishment phenomenon. Punishment does not occur only in the sphere of the judicial system, but in a wide spectrum of social contexts. This can be referred to as punishment in its "broader context" (Cilliers & Naser 1992b:38). The type of punishment referred to in this study, however, narrows punishment to its application by the state in a formally prescribed way, known as punishment in its "narrow context." In this sense, Cilliers & Naser (1992a:43) distinguish six characteristics of punishment. It must be:

1. "Physically and/or psychologically unpleasant for the individual undergoing it;
2. applicable to the person of the offender;
3. the action of a human institution; that
4. must be vested with the authority to take such action;

5. imposed for an offence for which the person punished can be considered responsible; and
6. imposed with definite objectives or aims."

If this exposition is analysed, it will be noticed that points two, three, four and five have to do with structural or practical applications of punishment by the state, whereas points one and six have more subjective meanings; referring to the way in- and extent to which people feel it should be applied. The subjective contents of these two points, namely "how unpleasant punishment is supposed to be," and "with what particular aim or purpose it should be laid down," can basically be seen as reflecting the study terrain of this study.

#### **1.3.3.1.3 Punitiveness**

Punitiveness can broadly be described as the noun of the term "punitive," which is described by the American Heritage Dictionary (1969:1060) as: "...aiming to inflict punishment."

There is, however, an ambiguity surrounding this concept. Being derived from the term punishment, it can be translated as the extent to which people aim to inflict punishment (*i.e.* negative consequences on the person of the offender). According to Walker & Hough (1988:5-6) it has two distinct meanings: in an idiomatic sense it can also refer to "severe," or at least "the wish to deliberately inflict hardship or inconvenience." D'Anjou *et al.* describe this wish for hardship to be inflicted by stating that:

- "...the more extreme type of sentence is preferred to milder measures;

- the longer and more severe the sentences, the better; and
- less humane (*i.e.* more extreme) prison conditions are preferred to more humane conditions (1978:331).

It is clear that punitiveness, in this sense, can easily be confused with "revenge" or "vengeance."

#### **1.3.3.1.4 *Just deserts***

There is, however, a narrower meaning of the word, used mainly by penologists who categorise punishment according to its basic motives. For them it refers to "endorsing retributive aims," where it is set against the other purposes of punishment, namely deterrence, protection of the community and rehabilitation (Walker & Hough 1988:6). In this sense it can also be described as the offender "paying back his debts to society" (the debts incurred by the imbalance created by the crime), which rests on a neutral stance toward the offender, and where punishment can be seen as more of a calculated response to crime. This may also be translated as the offender "receiving his or her just deserts," which does not necessarily involve negative feelings toward the person of the offender or wish for maximum hardship to be inflicted upon him or her.

In reality, however, these two concepts overlap to a large extent: there is necessarily some calculation involved in punitiveness and also a measure of revenge in just deserts. The distinction made in this study is thus only aimed at fulfilling its specific purpose, which is to see what inferences could be drawn by comparing them.

### 1.3.3.2 Geographical demarcation

The geographical area of study is the district falling under the Mankweng Rural Local Council (referred to in this study as Mankweng RLC<sup>3</sup>), an area situated near Pietersburg in the central part of the Northern Province<sup>4</sup>.

### 1.3.3.3 Population demarcation

Although more statistics on this area are provided in chapter five, it should be mentioned that this area consists nearly exclusively of semi-urban black people belonging to the Sepedi language group.

### 1.3.3.4 Temporal demarcation

The planning for this study was conducted during 1996 and 1997, whilst fieldwork took place in the middle of 1998.

## **1.3.4 Choice of a research topic**

Also important in formulating the problem is to describe why this specific research topic was chosen. Mouton & Marais (1990:35-36) provide the following three motivations for researchers to engage in a particular topic:

1. Wonder, where the motivation can be described as inquisitiveness;
2. theory testing, where research is motivated by the testing of existing models and theories; and

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<sup>3</sup> Mankweng RLC must be distinguished from Mankweng, which refers to one of the three residential areas within Mankweng RLC where interviews were held and is situated adjacent to the University of the North.

<sup>4</sup> Maps indicating the location of this area are provided in appendice C.

3. hypotheses generation, where researchers attempt to generate new models or hypotheses by using exploratory studies.

This study answers as follows to these three requirements:

1. The choice of a topic for this study emanated from an interest in the deeper-lying meaning of punishment; especially concerning the so-called motives of punishment (retribution, deterrence, protection of the community and rehabilitation). This study was thus partly embarked upon to satisfy the curiosity of the researcher regarding the subject of punitiveness: not only *how* punitive people are, but more specifically how it should be interpreted with regard to the theoretical constructs.
2. No theory-testing as such takes place in this study, seeing that it can predominantly be described as mainly exploratory. An hypothesis concerning the relationship between punitiveness and just deserts is investigated, however.
3. A third motive came into being whilst undertaking a study of the relevant literature. It became clear that the development of scales measuring punitiveness remains largely unexplored. This study was consequently embarked upon to further the subject terrain by combining scales in an attempt to throw more light on the thought processes underlying punitiveness with regard to the different scales.

### **1.3.5 Research goal**

This study can be described as mainly exploratory but also explanatory. According to Mouton & Marais the goal of exploratory studies is to explore a relatively unknown research area (1990:43).

In this study the "punitiveness" phenomenon is examined to gain new insights, to explicate the concepts used to explain it and to generate new hypotheses. As to its explanatory nature, the main aim is to investigate the relationship between just deserts and punitiveness in the relationship mentioned under section 1.3.3.

The specific goals that the researcher wishes to attain are:

1. To devise a "punitiveness-scale" (A) from which the punitiveness-levels of individuals can be deduced;
2. to devise a "Just deserts-scale" (B), from which individual perceptions about suitable sentences for certain types of crime can be inferred;
3. to determine whether there is a significant correlation between A and B; and
4. to investigate the possible correlation (or non-correlation) between them in terms of:
  - i) Demographic variables;
  - ii) reasons given by respondents for their responses to the choice of appropriate punishments in B; and
  - iii) responses given to statements presented in Ain order to obtain a better understanding of the nature of similarities and differences between the two scales.

### **1.3.6 Unit of Analysis**

Punitiveness is to be explored on an individual basis, where a certain number of individuals are studied as representative of the particular population (see Mouton & Marais 1990:38). It is conceded that different individuals may have different levels of punitiveness

and that the reasons provided by individual respondents for their choices will differ.

### **1.3.7 The central research hypothesis**

In accordance with the research goal, the central research hypothesis can be summarised as follows:

"That there is a significant correlation between public punitiveness and public opinions on just deserts as obtained from reactions to crime descriptions."

This hypothesis, however, needs to be further defined:

- In terms of punitiveness, a Likert scale was used.
- As to public opinions on just deserts, scaling was done by determining the severity with which respondents laid down punishments to crime descriptions (referred to as a Just Deserts scale).
- Pearson's correlation was used to determine the relationship between the two scales.

## **1.4 Research strategy**

### **1.4.1 Literature study**

A literature study was conducted using a key-word search for subject matter at the Unisa library. Although only one book (*Public Attitudes to Sentencing: Surveys from Five Countries* by N. Walker & M. Hough (1988) was found dealing exclusively with this topic, about twenty articles (mainly in criminological journals) were located. Another

thirty-five articles were found dealing with corresponding issues, such as seriousness scaling and public opinions. Findings with regard to public punitiveness as obtained in the literature are discussed in chapter three.

## **1.4.2 Empirical study**

A structured interview consisting of three parts was devised (see chapter five). The first part of the questionnaire (the independent variables) consists of six offender characteristics: area of residence; age; gender; level of education; income level and victim status.

Two distinct dependent scales were included:

1. A nominal Likert scale measuring punitiveness; and
2. an interval variable scale determining sentence severity, which can be called a Just Deserts scale.

### **1.4.2.1 Sample and method**

A full population sample (n=270) was drawn. Respondents were randomly selected from three areas within the Mankweng TRC (90 respondents from each area) in May 1998, with "household" as the primary sampling unit and gender, age and residency in the household the selection criteria used to choose a respondent within each of the households. A structured interview was chosen as method of inquiry because of the illiteracy rate of residents in this area.

An eligible respondent was also someone sixteen years of age or older who resided at such an address. Nineteen Honours-degree students of the University of the North conducted the interviews.

### 1.4.2.2 Statistical techniques

The data obtained in this study does not present one with continuous scales. Nevertheless, comparisons with regard to punitiveness made use of the Pearson correlation coefficient test, as approximation, since the study is exploratory and more complex nonparametric methods are therefor not advisable. This is in line with general practice.

## 1.5 Division of chapters

Chapters are divided according to a logical succession of ideas. It is set out as follows:

- Chapter one deals with an orientation to the study, clarifying the concepts, formulating the problem and discussing methodological issues.
- In chapter two punitiveness is investigated from a penological viewpoint.
- Chapter three deals with the literature on public punitiveness: various concepts used to indicate punitiveness, methodology, and findings from similar studies.
- In chapter four a detailed description is made of the questionnaire construction process.
- To provide a description of the people whose perceptions are studied, chapter four provides demographic particulars, describing the area and providing some statistics.
- Chapter six presents the findings; and
- in chapter seven, conclusions are drawn and recommendations made.

## CHAPTER 2: PLACING THE ISSUE OF PUNITIVENESS IN A PENOLOGICAL FRAMEWORK

In this chapter public punitiveness is placed in a penological framework. The main stages of penological thought during the last two centuries are briefly discussed, and the situation today is highlighted. The purpose of this discussion is to denote the importance of public punitiveness and opinions on just deserts to the subject terrain of the penology.

### 2.1. A brief history of punishment

Bartollas & Conrad make the following statement in the prologue to their work, "Introduction to Corrections (1992:4):"

"A knowledge of the past is essential to an understanding of the present and for planning the future: you cannot know where to go without knowing where you have been."

This applies equally to the study of public punitiveness. Perceptions on why people think offenders should be punished and how much punishment they deserve seem to have changed over time. Opinion polls show the man in the street today to be disgruntled with the apparent inability of the criminal justice system to control crime. Studies also show an increase in punitiveness and fear of crime, especially during the last two or three decades (Walker & Hough 1988:3,

Stinchcombe et al. 1980). The historical development of penological thought and how the situation as it stands today evolved, will subsequently be looked at.

### **2.1.1 The Classical School**

The Era of Enlightenment (or of reason) emerged during the mid-eighteenth century in Europe (Welch 1996:48). Under the influence of physical scientists such as Isaac Newton, who set out to explain the laws of physics in a systematic way, social scientists began to investigate the laws underlying human behaviour (*Ibid.*, p.48). Intellectuals also began to doubt the rigid standpoints of the church of their time and focused instead on the power of reason, humanitarianism and secularism. This movement was centred in France, with writers such as Voltaire, Montesquieu and Rousseau as its main proponents (Toch 1986:149).

As for crime and punishment, the unfettered exercise of discretion by authorities during the Middle Ages, which was expressed in practices such as capital punishment, torture, pre-trial incarceration, secret accusations, the interpretation of laws by judges and the disproportionate punishment of minor offenders was attacked by Beccaria in his work "On Crime and Punishment" (Toch 1986:149). Beccaria, Bentham and Feuerbach advocated definite sentences that should be no more severe than necessary to deter people from committing crime: "Punishment must make the strongest and most lasting impression on the minds of men, and inflict the least torment on the body of the criminal." (Beccaria 1986:23). These ideas on crime, punishment and criminal law later became known as the Classical School of criminology.

According to Beccaria the only reason to punish people should be to ensure the survival of society and to deter people from committing crime (Reid 1981:457). Jeremy Bentham proposed what he called the doctrine of "felicific calculus" by which he meant that punishment should only be severe enough to counteract the anticipated pleasure that the criminal foresees to obtain from his crime (*Ibid.*, p.586). The main factor determining sentencing severity is the seriousness of the crime, that is, the damage that has been wrecked on society. It can be summed up in the phrase: "The punishment must fit the crime."

Looking at the classical school's ideas on judicial discretion, Beccaria's intention is clearly evident in the following excerpt from his essay "On Crimes and Punishments" (1986:11):

"Nothing is more dangerous than the common axiom that one must consult the spirit of the law...Everybody has his own point of view, and everybody has a different one at different times. The spirit of the law, then, would be dependent on the good and bad logic of a judge, on a sound or unhealthy digestion, on the violence of his passions, on the infirmities he suffers, on his relation with the victim...Thus we see the fate of a citizen change several times in going from one court to another, and we see that the lives of poor wretches are at the mercy of false reasonings or the momentary churning of a judge's humors."

Judges are accordingly not required to interpret laws. Their task is limited to determining guilt and to make uniform judgements where similar crimes are concerned (Toch 1979:149-151, Bartollas & Conrad

1992:52-59).

To conclude it can be stated that the classical school focused on addressing the crime that has been committed. Justice, as seen from their perspective, is represented by providing just deserts to offenders based on the nature of their crimes. The justification for punishing offenders lies in the indeterministic view<sup>5</sup> that man has a free will to choose between right and wrong and can therefore be held accountable for his actions. Some utilitarian ends were to be served by punishment: that it should serve as a warning to people not to commit crime and to ensure the continuance of society. The basic purpose of punishment, however, is retribution: punishing someone because of, and in relation to, what he or she has done wrong.

## **2.1.2 The Positivistic School**

The nineteenth century saw the development of a "scientific" approach to criminology, which stressed that everything - including crime - had natural causes that can be understood and controlled (Toch 1979:151). The positivistic school of criminology, which originated in Italy, held the view that crime could be dealt with by neutralising its causes and by reforming the offender (Fogel 1975:30-35). It is based on a deterministic perspective<sup>6</sup>, which assumes that crime should be seen as a psychological deviation that falls outside

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<sup>5</sup> The indeterministic view of responsibility centres around the rationalistic conception that man's essence is in his intellect or reason, and that his intellect enables him to understand and control observed phenomena, including his actions. Because of this ability to control his actions, he carries responsibility for it and can thus be held accountable (Neser, Cilliers & Van den Heever 1989:109).

<sup>6</sup> The opposite of the indeterministic view of responsibility is the so-called deterministic view, which holds that every human act is unavoidable because it is determined by a series of previous events or causes (Cilliers & Neser 1992b:45-46).

the control of the individual, and that he or she can therefor not be held accountable for his or her actions (Grasmick & McGill 1994:26).

These ideas stand in stark opposition to the tenets of the classical school (Ferri 1901:229). Ferri, one of the prominent positivistic criminologists, pointed out that:

“...the classical school of criminology, being unable to locate in the course of its scientific and historical mission the natural causes of crimes,...was not in a position to deal in a comprehensive and far-seeing manner with this problem of the remedy against criminality (Ibid., p.229).”

Positivistic criminologists also objected strongly to the classical school's premise that the punishment should fit the crime, and proposed instead prison sentences that would only be long enough to rehabilitate the offender (the so-called indeterminate sentence) (Fogel 1975:60). According to Lombroso, the aim of rehabilitation required that “we make the punishment fit the criminal rather than the crime (cited in Toch 1979:154).” This school of thought accordingly looked at the interests of the offender instead of that of the community, and stressed rehabilitation instead of punishment (Fogel 1975:50-60).

Significant with regard to the positivistic ideal are the measures that progressively developed to sustain the rehabilitation idea. The most important of these were:

- The use of imprisonment as the main form of punishment: the prison was seen as an ideal venue where rehabilitation should take place

(Fogel 1975:51);

- subjecting inmates to compulsory treatment and educational programmes in prison (*Ibid.*, p.56);
- the indeterminate sentence, whereby prisoners could be held longer in prison depending on their rate of rehabilitation (*Ibid.*, p.51);
- the use of the parole board to decide on the release-date of offenders, with the underlying idea is that this board would be able to determine whether someone is rehabilitated or not (*Ibid.*, p.52); and
- the use of psychotherapy as the instrument through which the psychological problems of the offender could be assessed and cured (*Ibid.*, p.53).

The positivists consequently believed that, instead of justice in the traditional sense of the word, they could offer a scientific alternative that would solve the crime problem instead of only addressing it.

### **2.1.3 Developments in the 20th century**

In the early 1900's, further refinements of the positivistic idea were made. This time the accent was on the individualised treatment of offenders. The progressive era of the early twentieth century was characterised by faith in the state's ability to improve society through liberal reform (Conklin 1992:498).

One product of this philosophy was the so-called Medical Model that became prominent in the United States from the 1920's to the 1960's (Bartollas 1985:9). This model was based on a deterministic

perspective and assumed that crime should be seen as a psychological deviation. According to Bartollas, proponents of this model were of the opinion that prisons had to be transformed into mental hospitals where intensive psychological therapy could be administered: "The warders were to be replaced by nurses and the warden by a psychotherapist" (*Ibid.*, pp.9-10).

#### **2.1.4 Decline of the rehabilitative ideal**

By the end of the 1960's the Medical Model in particular, but also the rehabilitation ideal in general, had been largely discredited in correctional circles. This decline can be ascribed to the following reasons:

- Most important were empirical studies showing that institutionally based treatment was ineffective in reducing recidivism (Callison 1983:298). According to Carney: "...treatment theories are filled with high-sounding phrases, but their application did not result in any dramatic, large-scale successes" (1979:324). In a study conducted by Robert Martinson, in which 231 rehabilitation programmes operating in different parts of the United States between 1945 and 1967 were evaluated, it was concluded that: "...it still must be concluded that the field of corrections has not as yet found satisfactory ways to reduce recidivism by significant amounts... corrections has yet to sort out from current treatment programmes or their components those techniques that are effective." (Lipton, Martinson & Wilks 1975:627).
- Critics argued that one reason for its failure to prevent recidivism was that the brutal environment inside a prison is not conducive to treatment efforts: "How could a group therapy session

be efficacious when the inmate returned to a cell where he might be sexually assaulted and had to deal with the ever present tumult of prison life?" (Bartollas 1985:10).

- It has also been argued that rehabilitation as a correctional philosophy is based on fallacious grounds. One reason for this lies in the compulsory nature of correctional treatment measures. According to Conrad: "...researchers have concluded that attempts to rehabilitate offenders are futile unless the individual to be rehabilitated desires that outcome enough to take the initiative." (Forward to Bartollas 1985:ix). Another reason is that the deterministic viewpoint, with its insistence on criminality being an illness, deprives the offender of his integrity as a rational, responsible human being (Conklin 1992:500). In the words of Professor C.S. Lewis, prolific English writer: "To be cured against one's will and cured of states which we may not regard as disease is to be put on a level with those who have not yet reached the age of reason or those who never will; to be classed with infants, imbeciles, and domestic animals. But to be punished, however severely, because we have deserved it, because we ought to have known better, is to be treated as a human person made in God's image (quoted in Conklin 1992:501)."
- The use of the indefinite sentence together with parole dates handed down by parole boards was one of the main reasons for the notorious American prison riots of the 1970s. Prisoners perceived this practice as unfair because their freedom depended on parole board decisions and they saw their appearances before these boards as "stage acting" in which they had to play the part of rehabilitated citizens in order to be released. This led to

considerable uncertainty and tension. The Attica prison riot which resulted in the death of 32 prisoners and 11 hostages (World Year Book 1972:304) was ascribed largely to convicts' dissatisfaction on this issue.

### **2.1.5 Developments after 1970**

During the last three decades, punitive thought all over the world seemed to have made a full circle, taking corrections back to the basic principles proposed by Beccaria, namely sentences predetermined by law and prescribed to courts (Sebba and Nathan 1984:221-222). "Neo-classicism" is represented in the conviction that the treatment of criminals is not working, and that severer sentences, especially longer terms of imprisonment, are necessary to deter people from committing crime (Cullen, Clark and Cullen 1985:324). According to Cullen *et al.*, the insistence on the increased use of incarceration and heavier sentences can be ascribed to: "changes in attributional processes in general and in popular theories of crime in particular. (*Ibid.*, p.324)."

## **2.2 The situation today and the need for an assessment of public punitiveness**

As mentioned above the pendulum, for several years now, has swung from individualised to tariff sentencing (Walker & Hough 1988:1; Ashworth & Hough 1996:776). Meeting out justice, or seeing that offenders get their "just deserts," returned as the main purpose of sentencing ideology in most countries (Sebba & Nathan 1984:221-2). In terms of the justice ideal, the main tenet of this situation is

seemingly simple: that the punishment should fit the crime (Rossi, Simpson & Miller 1985:59; Sebba & Nathan 1984:222).

On a practical level there is, however, a certain weakness in this assessment: What, precisely, is justice, and how much or little punishment constitutes just deserts?

As mentioned in chapter one, most members of the judiciary and the legislature were, until recently, hesitant to take public opinions into account, considering it to be uninformed and superficial (Riley & Rose 1980:345). The positivistic view in corrections contributed to this situation, replacing justice with rehabilitation and leaving treatment to the experts (psychiatrists, psychologists, social workers, etc.), a domain largely inaccessible to public scrutiny.

Being returned to a situation where a workable definition of justice is needed and where that definition is based, to a large extent, on the values and norms prevalent in the society in which it is to be applied, members of the judiciary are compelled to take the views of the man on the ground into consideration when laying down sentences (Walker & Hough 1988:1). In South Africa this need may even be larger, because of its multi-cultural nature, where sentencing officials must be uncertain about just whose values the sentences they lay down represent.

To a large extent, as mentioned in the previous chapter, the public also demands being heard in this regard. Opinion polls and daily letters to newspapers show that most people are dissatisfied with the functioning of the criminal justice system and with sentences they perceive as too lenient and favouring the criminal. Interestingly enough, apart from opinion polls that are not always conducted in a

scientific way, very little research had been done on this subject, especially in our country.

This study attempts, in a limited way, to make a contribution on this issue. It focuses in particular on the meaning of punitiveness as viewed by the public. The Likert scale and the Just Deserts scale will be used, not only to tell us about the measure of public punitiveness, but also, in terms of the differences between the two scales and the reasons respondents give for their sentences, about the reasoning processes underlying their punitiveness.

Another factor of relevance to the study field of penology, is that the presence of the punishment motives (retribution, deterrence, protection of the community and rehabilitation) and to what extent they figure in the answers given by respondents will also be investigated.

## 2.3 Summary

Punishment philosophy today seemed to have made a full cycle from the time when Beccaria and Bentham first reacted to the extremities of the Middle Ages and proposed that the punishment should fit the crime. The positivistic ideal of replacing punishment with rehabilitation proved was found to be inadequate in dealing with the crime problem and opponents even view the basic principles on which it is based as erroneous and unfair toward the parties concerned. The problem with applying justice in the classical sense, however, lies in the question of how much punishment should be applied in each individual case.

In chapter three, the concept of punitiveness is further investigated, looking at the way in which it is defined in other studies: what methods are used to determine it, what findings have already been obtained and what other studies show us with regard to the limitations involved in studies of this kind.

## CHAPTER 3: LITERATURE SURVEY

Chapter three serves two purposes:

1. To provide a theoretical framework for the study as a whole; and
2. to provide information that shows the background against which decisions on the construction of the questionnaire (chapter four) and interpretations of findings (chapter seven) were taken.

As for the first point above, it will be seen in this chapter that the literature on this topic has taken two basic routes with regard to punitiveness. On the one hand, some studies have investigated the punitiveness phenomenon itself, trying to establish what it means in terms of its relationship with other concepts and also as to the characteristics of people who are more or less punitive. A more pragmatic approach, however, had been followed in other studies. In these cases, the emphasis is on the just deserts phenomenon, and the aim is to break down the sentencing process into its logical components and investigate public opinions on each of these factors to come to a functional construct according to which just deserts could be determined.

As for the second point above, this study attempts to build on other studies in this field. Concepts such as "punitiveness" and "just deserts" are largely dependent on how they are defined in the subject literature. Furthermore, even the construction of the questionnaire depends mainly on questions and methods that have been used in other studies. It is therefore important to provide a literature background that is as comprehensive as possible, especially with regard to

chapters four (where the construction of the questionnaire is set out) and six (concerning the basis on which findings have been based).

The chapter is set out as follows:

- ❑ A brief overview of studies on punitiveness and just deserts;
- ❑ methodology and findings with regard to the study of punitiveness;
- ❑ a logical exposition of just deserts; and
- ❑ cautionary remarks on the study of public punitiveness.

## **3.1 A brief overview of studies on punitiveness**

In chapter two it was argued that the current interest in public punitiveness can be seen as a result of changes in penological thought. The question of how this field of study originated will subsequently be briefly reviewed.

### **3.1.1 First polls**

Studies on punitiveness and just deserts originated from opinion polls on public attitudes toward crime and the criminal justice system. According to Walker & Hough any history of studies on public opinion and sentencing must begin with the Gallup polls in Great Britain. Questions concerning public support for corporal punishment and capital punishment appeared from 1938 (1988:3). Early efforts to determine public opinions on crime focused mainly on social problems (Durham 1993:3). A typical question referring to crime as a social problem, appearing in 1944, read: "What is the greatest problem currently facing the nation?" Other questions examined the public's

satisfaction with court processes, their views about the effectiveness of the police, and their fear of being victimised (Walker & Hough 1988:3).

### **3.1.2 Studies on the relative seriousness of crimes**

Apart from opinion polls, determining the relative seriousness of crimes was the first main field of scientific study (Durham 1993:3). Scientific studies on this terrain started off with a study by Thurstone in 1927 in which he asked respondents to judge the relative seriousness of a series of criminal offences. In the 1950's, more elaborate studies of this type were conducted, with the research of Rose & Prell in 1955 and the publication of "The Measurement of Delinquency" by Sellin & Wolfgang in 1964. It culminated in the *National Survey of Crime Severity* by Wolfgang et al. in 1985, in which more than 60 000 US citizens were adjudged according to their perceptions on the relative seriousness of crimes. A considerable degree of cross-national agreement concerning the relative seriousness of a wide variety of offences was found (Durham 1993:3).

Unfortunately, as Rossi (one of the main exponents of crime seriousness studies) mentions: "Although the criminal code defines a criminal act in a general way, punishment has to be accorded to a specific instance of law violation" (Rossi, Simpson & Miller 1985:60). This means that, in particular cases, various mitigating and aggravating circumstances may influence the punishment that an offender deserves more than its relative seriousness. These writers continue: "Fitting the punishment to the crime involves going beyond crime seriousness to take into account those particular features of specific cases that invoke the secondary principles involved in the assessment of whether justice has been served" (1985:60). It was

consequently realised that, in order to bring public opinions on crime seriousness nearer to a practical level, other factors influencing the sentencing process would also have to be included in such studies. The next step was to fit specific punishments to different crimes.

### **3.1.3 The scaling of penalties**

Whilst extensive studies have been conducted on the relative seriousness of crimes, this data can not be translated into an operational sentencing structure without also developing a scale reflecting perceptions about what penalties should be applied to different crimes (Sebba & Nathan 1984:222).

The scaling of penalties (similar to the Just Deserts scale used in this study) has had much the same development as the relative seriousness of crime-studies (Durham 1993:3). Sebba & Nathan mention that, whilst studies on the seriousness of crimes have been extensively developed, studies on the scaling of penalties have been largely neglected (1984:222). Rose & Prell (1955) asked respondents to make judgements about fitting prison sentences for 13 offences, and found some agreement regarding responses when correlation measures were used. Gibbons (1969) made so-called vignettes (short descriptions of crimes and which consist of a number of variables concerning aspects such as description of the offender, of the crime, of the victim, etc.) of 20 crimes and asked respondents to select a suitable punishment for each from a list of options. According to Durham, the results revealed high levels of agreement on punishments for certain types of crime but less coherence concerning others (1993:3). Boydell & Grindstaff (1980) and Thomas & Cage (1976) found considerable agreement in perceptions on fitting sentences for

various crimes, whilst Blumstein & Cohen (1980), and Rossi *et al.* (1985), found variation in judgements. Probably the culmination of research on this topic is represented by the *National Punishment Survey* (Jacoby 1989). This nationally representative survey asked respondents to provide suitable sentences to hypothetical cases. It found significant consensus about the type of sentences considered appropriate (fines, community service, probation, incarceration, etc.), but less agreement on the weight or duration of deserved punishment.

### **3.1.4 Public punitiveness**

Studies on public punitiveness focus on the punitiveness phenomenon, trying to determine what it is and how it relates to other attitudes or attributes of people. This study terrain is of recent origin, originating mainly from the 1970's. Studies on this topic and results obtained are discussed in section 3.2.

## **3.2 Methodology and findings with regard to the study of punitiveness**

The second aspect to be treated in this chapter pertains to the concept of public punitiveness as described in chapter one, that is as dissatisfaction with the way in which the criminal justice system handles the crime problem and a desire to see severer sentences being handed down to offenders. It can be contrasted with studies on just deserts that will be treated in section 3.3.

### **3.2.1 Methods employed to determine punitiveness**

The first aspect to be treated pertains to the methods that are used in studies to determine public punitiveness.

#### **3.2.1.1 Questions providing options to choose from**

The first method used to determine punitiveness is to ask direct questions to which respondents must react by selecting one of the options provided. Examples are: "Do you think it inhuman to keep people in prison for 25 years? (Brillon 1988);" "In general, would you say that the sentences handed down by courts are too severe, about right, or not severe enough? (Doob and Roberts 1988);" "What method do you think is best for dealing with persons committing crimes of violence: longer terms of imprisonment, birching, flogging with shorter terms of imprisonment, flogging with longer terms of imprisonment or some other way?," etc. (Gallup 1981). In these examples, respondents have to choose from the options "yes" or "no," or from one of the options provided.

Banks, Maloney and Willcock presented respondents with 14 pairs of hypothetical cases and asked them to state, in response to each pair, which one of two offenders should get the heaviest punishment (1975:232). Rossi *et al.* (1985) made use of crime vignettes and asked respondents to consider the appropriateness of a certain sentence imposed for each.

A common way of assessing punitiveness is to make certain statements and ask respondents whether they agree or disagree with it. Agreement with punitive statements would then imply punitiveness whilst agreement with nonpunitive statements be an indication of the

contrary. Brillon (1988), for example, designed a simple punitiveness scale based on agreement or disagreement with statements such as:

- "It is inhuman to keep criminals in prison for 25 years:  
(i)strongly agree, (ii)somewhat agree, (iii)somewhat disagree,  
(iv)strongly disagree."
  
- "Prison life should be made easier: (i)strongly agree,  
(ii)somewhat agree, (iii)somewhat disagree, (iv)strongly  
disagree."

In their study on public and elite opinions on prison reform, Riley & Rose (1980) determined aspects such as permitting visits by prisoners' spouses for sexual purposes and greater use of solitary confinement and physical punishment in prisons by using the options: "agree," "disagree" and "undecided."

Although this method enables the researcher to deduce that people are punitive (or at least that some people are more punitive than others), its usefulness in determining levels of punitiveness or in devising useful scales is limited because of the relative nature of the data. Findings can usually only be presented as numbers or percentages of respondents favouring the different options.

### 3.2.1.2 The Likert scale

The next method, closely coupled to the previous one, is to test agreement or disagreement with statements by making use of the Likert scale.

According to Bailey (1982:365), the Likert scale can be described as a technique for increasing the likelihood that, when devising a scale measuring some concept, the questions contained in it would measure

the concept at hand, and not something else. This writer accordingly sets out the procedure for constructing a Likert scale as follows:

- "Write down a large number of questions thought to measure the dimension to be scaled;
- select a sample of respondents representative of the population on which the scale will be used;
- code all responses so that a higher score on a particular item indicates a stronger agreement with the attitude being scaled (code five for either strong agreement with a punitive statement or strong disagreement with a negative one, and vice versa);
- compute a scale score for each person by summing up his or her scores on all questions; and
- analyse responses and select for the scale the items most clearly differentiating between the highest and lowest scores."

Normally either five points, seven points, or nine points are used to determine how strongly respondents agree or disagree with a specific statement. Each of these scales range from "strongly agree" to "strongly disagree" and must have a mid-point indicating a neutral stance.

Writers making use of the Likert scale to determine punitiveness include Curry, who investigated the relationship between conservative Protestantism and punitiveness (1996); Melvin, Gramling & Gardner (1985) who devised an "attitudes toward prisoners" scale; Cullen, Clark & Cullen (1985:314) who used a 7-point Likert scale; and Baron & Hartnagel (1996:198) who used a 7-point Likert scale to determine public punitiveness toward juvenile offenders.

The main advantage of the Likert scale is that more detailed variances of opinions can be obtained and that a scale can be created to distinguish between people as to their levels of punitiveness. It must be taken into account, however, that the data represented in such a scale is still of a relative nature which means that differences can not actually be measured with certainty.

### 3.2.1.3 Magnitude scaling

Magnitude scaling, or number estimation, refers to respondents providing numbers (say between 0 and 100) to indicate relative seriousness: the larger the number, the more serious they regard the specific crime (Harlow, Darley & Robinson 1995:75; Sellin & Wolfgang 1964). An example of magnitude scaling is: "Let us suppose that a sentence of one year's probation be given a score of ten. How would you score 12 months imprisonment (Sebba & Nathan 1984:247-8)?" Magnitude scaling was used extensively by researchers such as Sellin & Wolfgang (1964) to determine individuals' perceptions on the relative seriousness of crimes.

The biggest single advantage of this technique is that respondents are not restricted to only a few pre-chosen scale marks or to relative criteria such as in Likert scaling. These techniques can consequently "freely adjust to the true range of stimuli as respondents see fit" (Sellin & Wolfgang 1964:73-4), and can thus be seen as a more accurate representation of variances in opinion.

The reason for not using it in this study is that, in terms of the Just Deserts scale, the concept may have been too abstract for some (especially illiterate respondents) to comprehend. Simple options such as length of imprisonment were subsequently chosen.

### 3.2.1.4 Line production techniques

An interesting way of determining public opinions on fitting penalties to crime descriptions is the use of the so-called Line Production Technique. This method was developed in psychophysics as a means of obtaining judgements about the intensity of physical stimuli, such as perceptions about the brightness of light (Harlow et al. 1995:75). It can also be used to create a penalties-scale (Sebba & Nathan 1984). Line production refers to respondents drawing lines indicating the severity of different penalties (the longer the line, the more severe the sentence).

The main advantage of this method is that ratio scaling can be used because of the continuous nature of obtained data. Much more sophisticated statistical techniques can thus be employed than with techniques such as the Likert scale, or with techniques requiring the respondent to choose from a range of predetermined options. Just as in the previous point, however, this method was not used in this study because illiterate respondents may have had problems interpreting the concepts involved.

### 3.2.1.5 Other techniques

A very interesting method used by McCormick et al., in a New Zealand study on attitudes toward penal policy, is the Semantic Differential Technique, in which bipolar concepts such as "ineffectual - effective; hostile - friendly; cruel - kind; insincere - sincere, etc." are used to determine positive and negative feelings toward different role players in the criminal justice system (1984). The main advantage of this method is the indirect way in which it assesses opinions, which makes it more difficult for respondents to

manipulate responses. Unfortunately, in this study where language is already a complicating issue, semantical problems would have made it difficult to evaluate responses to such statements.

### **3.2.2 Findings on punitiveness**

The next aspect to be discussed is the findings obtained in various studies concerning punitiveness. There are two main categories of findings: In the first place other concepts (or combinations of concepts) are used as indicators of punitiveness. The most important ones found in the literature were:

- Dissatisfaction with the functioning of the criminal justice system as indication of punitiveness;
- opinions about the main aims of punishment as indication of punitiveness;
- support for severer sentences as indication of punitiveness;
- fear of crime as indication of punitiveness; and
- conservatism as an indication of punitiveness.

The relationship between these indicators and punitiveness is discussed under section 3.2.2.1. The second group of findings deals with the relationship between punitiveness and various demographic variables such as age, gender, socio-economic status, level of education and victim status. This is treated under 3.2.2.2.

#### **3.2.2.1 Findings on indicators of punitiveness**

The most important indicators of punitiveness, *i.e.* concepts that are used in the definition of punitiveness, are:

### **3.2.2.1.1 Dissatisfaction with the functioning of the criminal justice system**

The first indicator of punitiveness is public dissatisfaction with the functioning of the criminal justice system (Durham 1993:2). Several studies and opinion polls indicate that the public, in most countries, is of the opinion that sentences laid down by courts are too lenient (Walker & Hough 1988:6; Walker, Hough & Lewis 1988:187; Corbett 1981:333). According to Brillon (1988:86), the 1980 Figgie Report in the United States showed that a large majority of people believe that it is impossible to do something for those who commit crimes within the existing justice system. Other typical findings are:

- In the Gallup polls in England (Gallup 1981) two-thirds of respondents felt that prison sentences prescribed by the courts were, in general, too short. Similar findings were obtained in the United States (Figgie 1980), France, and Canada (Walker & Hough 1988:6).
- According to data obtained by Stinchcombe *et al.* (1980), in 12 surveys stretching from 1965 to 1978, 49 per cent of Americans in 1965 felt that sentences handed down by courts were not severe enough, which gradually rose to 78 per cent in 1974, and 85 per cent in 1978.
- In a study on public punitiveness regarding juvenile offenders in Canada, Baron & Hartnagel (1996) found that 78 per cent of respondents in their sample were of the opinion that youth courts have become too lenient.
- Walker, Hough & Lewis (1988:187) - in their study in England and Wales - have shown that dissatisfaction with sentences laid down

by courts differ with respect to the nature of the crime. As to rape, 90 per cent thought that sentences were too lenient. For mugging the figure was 87 per cent, 54 per cent for burglary, and only 17 per cent of respondents felt that sentences for shoplifting were too lenient.

- As to the functioning of the police, Corbett's study on "Public support for law and order" indicates that the majority of the American public thought that the police were too soft on suspects, although most ascribed it to the fact that there are too many restrictions placed on the police nowadays (1981:333-9).

#### ***3.2.2.1.2 Opinions about the main aims of punishment***

A second indicator of punitiveness found in the literature is public opinions about the main motives of punishment (Sebba & Nathan 1984:249; Walker, Hough & Lewis 1988:185). As mentioned in chapter two, the mood nowadays is toward harsher treatment of offenders, represented by the motives of retribution, deterrence, and protection of the community. In contrast, the motive of rehabilitation that focuses on the interest of the offender represents a less punitive stance (Grasmick & McGill 1994:40, Walker & Hough 1988:6).

Studies show that the public generally favours the more punitive punishment motives:

- In the Prison Reform Trust's survey in Britain the percentage of respondents who endorsed the various aims of punishment were: "To punish the criminal" (42 per cent); "To keep criminals apart from society" (21 per cent); and "To deter would-be criminals" (12 per cent) (Shaw 1982).

- In a study by Brillion (1988:86), Canadian respondents ordered six objectives of punishment in the following percentative order: "To discourage people from committing crimes" (31 per cent); "To protect citizens against crimes" (25 per cent); "To punish those who commit crimes" (19 per cent); "To enable criminals to return to a normal life" (15 per cent); "To compensate for the harm done to victims" (7 per cent); and "To enable society to take revenge on those who commit crimes" (2 per cent). It is clear from these findings that, although people are hesitant about advancing the idea of revenge, motives endorsing punishment are predominant in their minds.
- Another finding by Brillion was that 78 per cent of his test sample of 1 018 persons felt that one of the main reasons for sending offenders to prison lies in the fact that "it is the way justice keeps its promise that those who commit crimes will get the punishment they deserve (*Ibid.*, p.86)."
- Walker, Hough & Lewis found that the most popular motive for punishing people is "to give the offender what he deserves" (just deserts) (44 per cent), ahead of motives such as individual deterrence (33%), general deterrence (17%), rehabilitation (28%), public disapproval of the crime (17%), compensation (31%) and incapacitation (29%) (1988:186).

The reason for these differences could probably be found in the deterministic-indeterministic debate, where retributionists (in particular) argue that offenders themselves are responsible for their behaviour, whilst rehabilitation is based largely on the belief that criminal behaviour should be seen as the product of environmental factors, and that criminal offenders can thus not be held liable for their actions (Grasmick & McGill 1994:26).

An interesting finding regarding support for the retribution motive is that, although the public are definitely in a punitive mood, the wish to make reform measures part of sentences is not necessarily excluded:

- In a Dutch study, Van Dijk & Steinmetz found that, although other studies show that people who support repressive methods against offenders are normally skeptical about reform measures, half of the respondents in their study favoring repressive measure were equally supportive of preventive measures (1985:74-75); and
- according to data provided by Smith & Lipsey (1976:113), the public is more willing to support liberal measures such as conjugal visits and work release than was previously thought.

To conclude one can infer that, even though people may not always favour the motive of retribution as such, most support sentencing aims that point toward severity (Walker & Hough 1988:219).

### ***3.2.2.1.3 A desire for criminals to be treated more severely***

Another indicator of punitiveness has been sought in the desire to see severe punishment meted out for various kinds of prohibited behaviour. Some of the criteria used to test this supposition are:

- In a Dutch study, Van Dijk & Steinmetz (1988) used public perceptions on issues such as heavier punishment and work camps as indicators of what they call "repressive measures" against offenders.
- The use of the death sentence is an example often used. Walker et al. (1985) and Hough & Lewis (1988), for example, tested this criterion in their samples.

- Walker & Marsh (1984:41) measured punitiveness by using support for imprisonment as indication of a more punitive stance and support for probation as indicator of a less punitive position.

With regard to findings in this regard, some examples are:

- According to Brillon (1988:89), the public sees imprisonment as the ideal method of ensuring public order by playing the double role of deterring offenders and protecting the community. Accordingly, about 58 per cent of respondents in his sample did not regard it inhuman to keep offenders in prison for 25 years.
- According to the same source, more than two-thirds of respondents were against the improvement of living conditions for prisoners (*Ibid.*, p.90). This can probably be ascribed to 50 per cent viewing prisons as "veritable hotels" (*Ibid.*, p.90).
- The Figgie Report (1980) has shown that 66 per cent of Americans think that the death penalty could effectively discourage the commission of crime. Only 16 per cent were totally against the principle of capital punishment, whilst 84 per cent accepted it as an exceptional or necessary recourse.

#### **3.2.2.1.4 Fear of crime**

Fear of crime is another concept used as an indicator of punitiveness. According to Brillon (1988:84-5) the relationship between these two factors can be explained as follows:

1. "That the public has a perception of (or experience with) crime as a real or potential threat; together with
2. its perception of the criminal justice system as a more or less adequate response, which can lead to punitive/non-punitive

attitudes."

It is therefor postulated that people feeling threatened may develop a punitive mentality (Hough, Lewis & Walker 1988:203-204 and Walker 1994:366). Cullen *et al.* (1985:307) describe it as follows: "It seems reasonable to anticipate that those who have suffered the unpleasantness of a victimisation would want the state to bolster the social peace by getting tough with offenders."

Findings on the relation between fear of crime and punitiveness have produced mixed results, however:

- Cullen *et al.* (1985) refers to the fact that women, although they are generally more fearful than men, manifest lower levels of punitiveness.
- Studies by Erickson & Gibbs (1979:329) on the causes of the periodical witchcraft trials held in Massachusetts toward the end of the eighteenth century showed that, in periods when economic prospects were less auspicious, there was a marked increase in the number of people advocating capital punishment and more severe penalties.
- Thomas & Foster (1975) also found an association between fear of victimisation and support for the death penalty, whilst
- a study by Thomas & Cage (1976) showed the inter-relationship between fear and punitiveness to be almost negligible.
- In longitudinal surveys stretching from 1965 to 1978, Stinchcombe *et al.* (1980) found that fear of crime among women increased more than among men, from 50 per cent between 1965 and 1968 to 63 per cent from 1973 to 1977, but found no correlation whatsoever between these higher levels of fear of crime and punitiveness.

- In a study on public punitiveness toward juvenile offenders, Baron & Hartnagel (1996) found little relationship between fear of crime and punitiveness.

### **3.2.2.1.5 Conservatism**

The last indicator of punitiveness to be discussed is the relation between people's basic attitudes toward life and their levels of punitiveness. In particular, a distinction is made between the punitiveness levels of conservative and liberally minded people.

According to Cullen *et al.* (1985:323): "...attributional factors - the cause and effect understandings of people - [mean that] rising offence rates can be interpreted through quite different lenses and lead to support for very divergent policy agendas. Thus for those with a positivist view of crime causation, anxiety over a flourishing crime problem can be an occasion for proclaiming the need for both wider socio-economic reform and for the expansion of meaningful job training programs to the criminally wayward. On the other hand, the heightened salience of crime for those embracing classical theory would make it manifest that crime in America now must be a paying enterprise and that we had soon better change the utilitarian calculus by implementing harsher sanctions."

Brillon reiterates this viewpoint by stating that punitive people are those who see the criminal as a violent person, a recidivist and incurable, whilst less punitive individuals think of criminals as young delinquents committing their first offence, who are not dangerous and who can be rehabilitated (1988:103). It would seem, then, that the differences between the punitiveness of conservative and liberal people can be ascribed largely to how they view the world at large. People having more conservative views are more punitive

than people who are liberally minded (Brillon 1988:100, Ortet-Fabregat et al. 1993:196, Baron & Hartnagel 1996:192, Van Dijk et al. 1985). There seems to be a strong link between punitiveness and individual values, particularly pertaining to the dimension of liberalism versus conservatism (Baron & Hartnagel 1996:196).

As can be expected, however, findings in this regard will depend to a large extent on how the concepts liberalism and conservatism are defined. Concerning findings in this regard, Brillon (1988:100) has found that conservative people are generally of the opinion that:

- "A more authoritarian government is necessary to ensure public order;
- women who have children should stay at home to look after them;
- in general, people today have no respect for anything;
- the problem today is that the family no longer plays the same role as it used to;
- homosexuals should not be accepted in society like everyone else; and
- criminals are incorrigible and hardened recidivists."
- Other convictions ascribed to a conservative outlook are:
- According to Ortet-Fabregat et al. (1993:196) conservative people advocate severe punishment rather than rehabilitation of people; whilst
- A positivistic orientation, on the other hand, can be positively associated with support for rehabilitation and negatively related to support for retribution and the capital sentence (Cullen et al. 1985:318).

Brillon (1988:109) sums it up as follows: "...it would seem that punitiveness is a basic attitude (derived perhaps from authoritarianism, from anomie and a certain intolerance...in short, from a way of seeing people and situations) which is inherent in people's personality. As such, it cannot be explained by how people perceive the phenomenon of crime or by the image people have of the system of criminal justice. On the contrary it would seem to function as an important modulating element which itself plays a basic and active role in how people see crime, the criminal and criminality..."

### 3.2.2.2 The relationship between various demographic variables and punitiveness

The second type of comparison that is drawn in studies regarding public punitiveness, is in terms of various demographic variables. Although not all of the variables mentioned here are tested in this study, studies in this regard have delivered some interesting findings.

#### *3.2.2.2.1 Socio-economic status*

Results on the relationship between punitiveness and socio-economic status are mixed, with Brillon (1988:98) and Banks *et al.* (1987:233) concluding that people with high incomes are more punitive than people with low incomes, but Walker, Lewis & Hough (1988) (in an Australian sample) reaching the opposite conclusion; finding lower income groups to be more punitive. Cullen *et al.* (1985:318) did not find income related to levels of punitiveness. Brillon found owner-occupiers more punitive than tenants (1988:98), probably because crimes such as housebreaking affect them more directly. Corbett found that people who supported a tougher role for police and courts tended to come from lower income groups (1981:339).

#### **3.2.2.2 Age**

Older people are more punitive than younger people and less in favour of rehabilitation (Brillon 1988:99; Cullen et al. 1985:318; Banks et al. 1987:233; Van Dijk & Steinmetz 1988:76; Hough & Moxon 1988:147; Hough, Lewis & Walker 1988:215; Corbett 1981:339). The Figgie Report also indicated that the elderly are more in favour of the death penalty than younger people (76 per cent of those over 60 compared to 67 per cent for people from 18 to 29 years). Banks et al. reiterated this by pointing out that more young informants were inclined to think it was important to reform criminals by helping them and teaching them how to lead an honest life (1975).

According to Baron & Hartnagel, the fact that older people generally hold more punitive views can perhaps be related to the fact that they hold more conservative social values (1996:203).

#### **3.2.2.3 Rural residents versus city dwellers**

Brillon found that rural residents are generally more punitive than city dwellers (1988:99).

#### **3.2.2.4 Level of education**

People who are well educated are less punitive than people with little education according to Brillon 1988:99, Baron & Hartnagel 1996:200, Van Dijk & Steinmetz 1985:76, Walker, Collins & Wilson 1988:154, Hough, Lewis & Walker 1988:215 and Corbett 1981:339. With regard to the relationship between education and conservatism, Baron & Hartnagel (1996:200) are of the opinion that people with higher education levels are normally more liberal with respect to social values. On the other hand, Cullen et al. (1985:318) did not find a relationship between education and punitiveness.

### **3.2.2.2.5 Gender**

The literature has shown that, in general, men are more punitive than women (Banks et al. 1987:232, Rossi et al. 1985, Walker, Collins & Wilson 1988:156, Hough, Lewis & Walker 1988:215). The following additional tendencies have also been noticed:

- Females are generally more in favour of treatment and less likely to support capital punishment (Cullen et al. 1985:318);
- in an Australian study, Walker (1994:156) found women less punitive than men, except on issues such as factory pollution, employer negligence and child beating, in which cases they tended to be more punitive;
- in a study in England and Wales, Hough, Lewis & Walker (1988) established that, although men proved to be more punitive than women, this gap closes as people grow older.

### **3.2.2.2.6 Victim status**

Another indicator of crime, closely related to that of perceptions on fear of crime (section 3.2.2.1.4), is the relationship between having been a victim of crime and punitiveness. According to Walker & Hough, redressing the harm done to victims has become an important issue in contemporary justice, with courts providing victims the opportunity to state their preferences before sentence is passed (1988:10). Whereas this practice may give the individual a chance to be a part of the sentencing process, the question arises to what extent being a victim of crime determines the punitiveness of victims in general?

Even though fear of crime is not necessarily a result of ever having been in direct contact with it, being a victim of crime implicates first-hand knowledge. Interestingly enough, studies on the

relationship between victim status and punitiveness indicate that having been a victim of crime does not seem to make one more punitive:

- In a Dutch study, Van Dijk & Steinmetz found that support for harsher methods against offenders is little affected by personal contact with crime (1988:81).
- When comparing a number of studies on victims' attitudes to the sentencing of their offender, Walker & Hough (1988:10) established that the first-hand experience of crime as a victim does not, in general, fuel a desire for heavy sentences.
- Hough & Moxon (1988:147) found that victims of crime are no more punitive than others.
- Taylor, Scheppele & Stinchcombe (1979) and Cullen, Clark & Cullen (1985:13) mention that being a victim of crime is, if anything, negatively related to punitiveness.

### 3.3 A logical exposition of just deserts

Under section 3.2 various indicators of punitiveness have been discussed. As mentioned in chapter one, punitiveness can have two basic meanings:

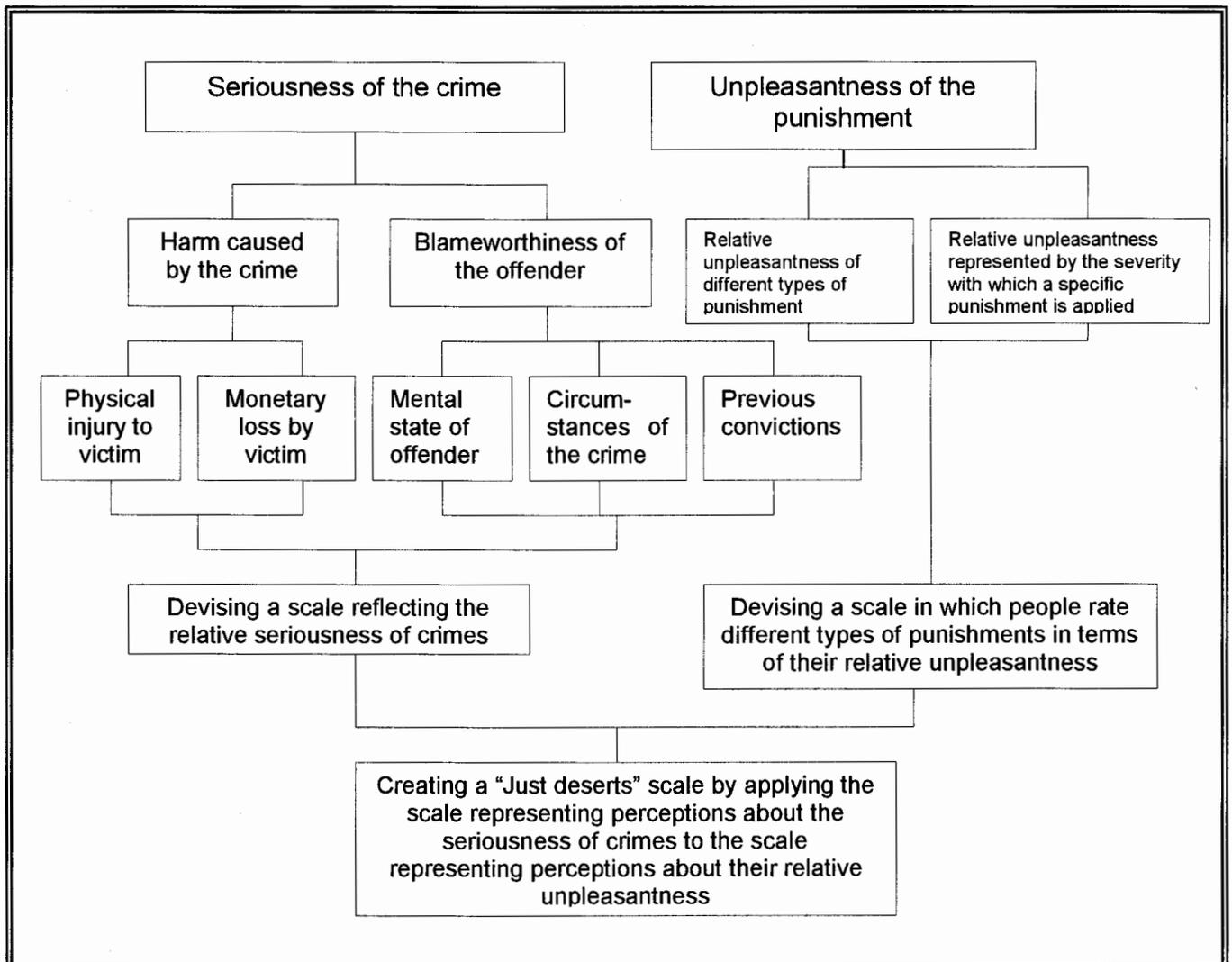
1. Signifying a negative stance toward the offender, in other words wishing the criminal justice system to act more severely toward criminals; or
2. being a more pragmatic response, calculating the just deserts applicable to each offender (Walker & Hough 1988:5-6).

Because just deserts, in this sense, can be seen as the result of a logical sequence of deductions, the thought-process underlying it (as systemised in the literature) will subsequently be discussed.

### 3.3.1 Theoretical framework

The following diagram representing the logical structure underlying just deserts can be drawn. Its construction has been influenced by Conklin (1992:472) and other relevant literature.

**DIAGRAM 3.1: A LOGICAL EXPOSITION OF JUST DESERTS**



According to Conklin, a workable system of retribution or just deserts requires the rank-ordering of:

1. Crimes by their relative seriousness; and
2. punishments by their relative unpleasantness (1992:472).

This means that two scales must be devised: The first a subjective scale based on how people rank crimes according to their relative seriousness, and the second a scale consisting of opinions about the relative severity or unpleasantness of punishments. According to the scheme above, devising punishment that fits the crime (just deserts) consists of applying the seriousness scale to the unpleasantness scale (*Ibid.*, p.472).

As to the seriousness of crimes, two further criteria can be differentiated, namely the *harm caused by the crime* and the *blameworthiness of the criminal*. (Bedau 1977; Warr 1989). Sellin & Wolfgang (1964), two of the writers who pioneered research on public opinions on the relative seriousness of crimes, assigned values to two different components of a crime, namely the amount of injury to the victim and the amount of monetary loss, and accordingly compiled a summary score for each offence. Widespread agreement between different samples about the ranking of the crimes was found (Conklin 1992:473). Warr, however, has shown that perceptions on the seriousness of crimes can be further broken down into two distinct criteria, namely the *harm* caused by it, and *wrongfulness*, which is a normative evaluation of crime (1989).

Determining the blameworthiness of the offender proved to be more problematic. According to the strict classical idea proposed by Beccaria, attention should be focused exclusive on the crime (in

other words the harmfulness thereof), making determination of blameworthiness unnecessary. The neo-classicists, however, argued that it would be more appropriate to consider the blameworthiness of the offender together with the harm done by him when laying down just sentences. According to Conklin (1992:472-3), determining blameworthiness consists of two steps: firstly by determining the motivation or mental state of the offender )n determining blameworthiness and secondly, by taking the circumstances surrounding the crime into account. A peripheral offender, for example, might be treated as less blameworthy than someone who plans and perpetrates a crime alone. Thirdly, and most importantly, past convictions is universally accepted as an aggravating factor when the blameworthiness of an offender must be determined.

Concerning the unpleasantness of penalties, determination of how unpleasant different types of punishments are, has proved to be quite complex. Erickson & Gibbs have devised a scale whereby respondents had to equate the severity of different penalties with a standard of one year in jail. On these grounds, they deduced that one year in a local jail can be seen as the equivalent of a six month prison sentence, 7,8 years probation or a fine of about \$3000 (1979). To find common grounds for standardising the punitive values of different types of sentences is not as easy as it seems, however. In the first place, two years imprisonment can not necessarily be seen as twice as punitive as one year. In the second place, if it was shown that the public in a certain sample equates one year imprisonment with, say, 5 years probation, this does not necessarily mean that two years imprisonment will be equal to ten years probation. Thirdly, it must be remembered that such estimations are

often vague, subjective, and culture bound, and may only reflect the mood of the times.

### **3.3.2 Determining just deserts**

The specific punishment that represents just deserts should consequently be seen as the result of combining perceptions about the seriousness of specific crimes and the penalties they deserve. As can be inferred from this statement, both these variables are perceptions and are based on subjective evaluations (Erickson & Gibbs, 1979).

The researcher should therefore be heedful, when evaluating data, to remember that figures based on public opinions do not represent absolute values, and that it may be more fruitful to investigate *how* people reached their verdicts.

The problem with obtaining responses about suitable punishments for crimes lies in the interpretation thereof. To be able to say, for example, that the mean number of years that a sample attributes to one crime is  $x$  and for another  $y$ , only shows that the one is deemed more serious than the other. To be meaningful, however, such data must either be: i) posed against another sample to make comparisons possible; or ii) be evaluated internally, comparing the punitiveness levels of different subgroups in the sample.

## **3.4 Cautionary remarks with regards to the study of punitiveness**

So far in this chapter, the focus was on literature findings concerning what other factors have an influence on punitiveness or

can be related to punitiveness levels. The next topic of discussion is the limitations of this type of study.

Since this study deals, not only with the human sciences but also with criteria that are subjective in nature, some cautionary remarks concerning the interpretation of data must be made.

### **3.4.1 Unfamiliarity of stimuli**

The first factor that may limit the applicability of studies on public punitiveness lies in the unfamiliarity of the data presented to respondents. According to Durham, the main problem associated with detailed descriptions of hypothetical crimes is that they are often not likely "...to involve either events that respondents themselves are personally familiar with or events that they have spent much time thinking about (1993:6)." Banks *et al.*, who set out to determine public opinions about crime and the penal system found that the public is largely uninformed about conditions in prisons and problems facing ex-prisoners (1975:325-6). Walker *et al.* established that people systematically underestimated how much the courts actually used imprisonment (1988:185).

What may happen is that respondents feel pressured to provide an answer (often in an attempt not to appear slow-witted or stupid). Bishop *et al.* (1984) examined this supposition by testing respondents' willingness to respond to questions about three fictitious acts: the "Agricultural Trade Act of 1983," the "Monetary Control Act of 1983" and the "Public Affairs Act of 1975." They found that more than half of respondents provided an opinion on the Monetary Control Act and the Agricultural Act. This shows the danger

that people are often willing to devise opinions on issues they have no knowledge of.

Walker & Hough propose the option of value-free terms such as "not enough information to say" in order to give respondents a chance to keep their dignity when then they do not have an opinion on a specific issue (1988:12).

### **3.4.2 The amount of information provided in crime descriptions**

When gauging opinions about fitting punishments for crimes, the amount of data provided to respondents may also prove to be a problem. Two shortcomings may result from providing too little information:

1. Baron & Hartnagel are of the opinion that public opinion polls often oversimplify the issue and fail to provide respondents with sufficient information (1996:207). Public attitudes toward the criminal justice system can therefor often be described as vague, ambivalent, apathetic and uninformed (Walker & Hough 1988:219). According to Thomson & Ragona (1987) the majority of studies lack specificity with regard to the types of cases and offenders respondents are supposed to judge. According to these writers: "Such data are informative for understanding the sociology of mass entertainment but they provide little authoritative evidence to guide public policy (p. 353)."
2. In addition, too little information may lead respondents to make their own deductions about information not provided in the questionnaire. Thomson & Ragona mention that the lack of specificity "suggests that respondents may be reacting to

boundary-defining images that have been formed by media accounts of particularly heinous...offences (1987:340).” According to Walker & Hough, evidence from Canada suggests that most people answer with stereotypes of violent and dangerous criminals in mind (1988:7).

Too much information, on the other hand, may limit the usefulness of the data due to its case-specific nature.

### **3.4.3 Time constraints**

Providing respondents with a complicated array of facts and expecting of them to come up with an immediate answer may also skew results. Bishop *et al.* argue that respondents "...do not perform an exhaustive search of their long-term memory for all pertinent political experiences and then give a considered response based upon that search...Instead, the evidence indicates that they respond largely with the first thing that comes to mind from their most relevant, recent experience" (1984:510-11).

### **3.4.4 Respondent comprehension**

A fourth concern is that, the more variables one uses to describe a hypothetical case, the larger the amount of information that must be processed and evaluated by the respondent (Durham 1993:8). The National Punishment Survey, for example, presented respondents with as many as 13 variables to consider when choosing a suitable punishment (*cited in* Jacoby 1989). Such relatively complicated situations may tax the capacity of many respondents to conduct an adequate assessment (Durham 1993:8).

## 3.5 Summary

As to the background of studies on punitiveness, they can be seen as an outcome of opinion polls, starting with the Gallup polls in England in 1938, where opinions on crime as a social problem were probed. Some of the main aspects being investigated since then have been studies on the relative seriousness of crimes, studies aiming at scaling penalties and studies investigating the punitiveness phenomenon.

Although the methods used in these studies vary according to the nature of what is investigated, it is clear from the literature that two broad techniques are used: i) questions requiring relatively simple answers or the choice of some options to obtain public opinions on certain issues; and ii) scaling techniques that are used to differentiate between respondents regarding their punitiveness levels.

A number of different concepts indicating or predicting punitiveness have been distinguished in the literature. The most important ones are: i) dissatisfaction with the functioning of the criminal justice system; ii) support for the more punitive punishment motives (retribution, deterrence and protection of the community); iii) support for severer punishment; iv) fear of crime; and v) conservatism. Of these indicators, a basic conservative outlook on life seems to be the strongest predictor of punitiveness.

Another set of findings pertaining to punitiveness as such has to do with the relationship between certain demographic variables and punitiveness. Positive correlation with punitiveness have been established for age, qualification level and gender (men being more

punitive than women). Mixed results, on the other hand, have been obtained with regard to socio-economic status and place of residence (urban versus rural inhabitants). No correlation (either positive or negative) could be established between victim status and punitiveness.

Concerning just deserts, the literature has shown that the mental process of determining just deserts can be broken down into a logical structure wherein certain factors are compared or weighed up against each other. Although studies have been conducted on certain components of such a structure such as the relative seriousness of crimes and the relative unpleasantness of certain punishments, it is clear that such an approach is far from providing a workable model according to which offenders can be punished, mainly because of the relative and subjective nature of the criteria. It is, however, possible to ask people what punishments they consider appropriate for certain crimes (or crime descriptions), although a few aspects should be taken into account when interpreting such results:

- i. The unfamiliarity of stimuli may lead respondents to furnish answers on topics they have little or no knowledge of;
- ii. The amount of information is vital, since too little information may lead respondents of "fill in the missing gaps" themselves when forming a picture of the crime in their heads, whilst too much information may limit the usefulness of data because of the specificity of data;
- iii. Expecting respondents to come up with immediate answers to complicated crime descriptions may also skew results because of the limited time frame of questionnaires; and

iv. Expecting respondents to make decisions about cases that contain too many variables, in other words overtaxing the ability of respondents to make an adequate assessment, may also distort results.

# CHAPTER 4: QUESTIONNAIRE CONSTRUCTION

## 4.1 Introduction

This chapter is deliberately placed after the one on literature findings because the questions used here, and the way that the questionnaire is constructed, are closely related with similar studies on punitiveness. It was decided to make this a separate chapter because of the large number of factors that had to be considered when compiling the questionnaire.

### 4.1.1 Construction of the questionnaire in terms its goals

In section 1.3.5 the main goals for this study were set out as follows:

1. To devise a Likert scale (A) from which the punitiveness of individuals can be deduced;
2. to devise a "Just Deserts" scale (B) to determine perceptions about suitable sentences for crimes;
3. to determine whether a significant correlation exists between A and B; and
4. to investigate A and B, as well as the possible correlation between them, in terms of:
  - i) demographic variables;
  - ii) reasons given by respondents for their responses to the choice of appropriate punishments in B;

iii) responses given to statements presented in A.

The questionnaire was arranged accordingly:

- The first part (part 3 of the questionnaire) obtains personal information from respondents that is used as independent variables.
- The second part (part 1 in the questionnaire) consists of a Likert scale that is used to measure punitiveness as defined. The reason for assuming this scale to reflect punitiveness is that the criteria used here are based on the literature findings concerning this concept (see chapter 3). Punitiveness, as defined in other studies, centres around two main aspects:
  - Cynicism about the criminal justice system's ability to be fair toward everyone and to control crime; and
  - negative feelings toward criminal offenders and the wish for such people to receive harsher punishment.
- Thirdly, to determine people's perceptions about just deserts, seven descriptions of hypothetical crimes are presented to respondents, and they are enquired about fitting punishments (just deserts) for these crimes (see table 4.2).

These questions are preceded by a foreword explaining to respondents the nature of the questionnaire, what is expected of them, its importance, and the anonymity of respondents.

#### **4.1.2 External factors influencing questionnaire construction**

The second set of factors that had to be taken into account when drawing up the questionnaire were certain perceived external factors

that could skew the results and influence the findings.

Studies on human subjects will never be able to obtain the degree of accuracy attainable in the physical sciences. This study deals with perceptions, which are subjective in nature and makes findings even less precise. It is therefore important to mention some of the specific factors that exerted restrictions on the construction of the questionnaire and on the attainment of reliable data, however, so that the reader may be conscious of them be able to weigh the results with these factors in mind.

#### 4.1.2.1 Illiteracy

According to part nine of the 1994 Provincial Statistics (Northern Transvaal) by the Central Statistical Services, 43 per cent of the population of the Northern Province have no education, whilst a further 21 per cent of their qualifications fall between grade one and standard three. Although these figures date from a few years back, the situation has not improved dramatically since then (see table 5.3 for the 1996 findings on the scholastic levels of residents in Mankweng RLC<sup>7</sup>).

To ensure uniformity, questionnaires consequently had to be taken down orally (in the form of a structured interview), instead of a written questionnaire, which may have yielded better results in terms of the purposes of this study.

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<sup>7</sup> "RLC" is an abbreviation of "Rural Local Council."

The major problem in this regard was that it placed limitations on the number of options to questions that could be posed to respondents. Whilst, for example, it would have been more feasible to provide a list of fifteen different lengths of sentences on paper to someone who could read it and consider a suitable one, it would be confusing - in terms of remembering all the options whilst considering them - to present too many options in a structured interview. This limitation affected the number of options to both the Likert-type questions (part 1) and the questions on suitable sentences for offenders (part 2). It also restricted the lengths (and thus also the amount of detail provided) of article-type descriptions because of the same reason.

#### 4.1.2.2 The use of interviewers

Another limitation inherent in the use of structured interviews is the use of interviewers. Although interviewers received training, interpretation of data by interviewers was unfortunately necessary - especially concerning the open-ended questions in part 2 (where respondents were asked to provide a single reason for their choices of sentences). The main problem with this procedure is that the students who completed the questionnaire inevitably had to abbreviate and interpret responses. The nature and extent of such interpretation, and to what extent responses written down by students are true reflections of answers given, would be most difficult to validate, however, since it took place whilst questionnaires were being completed.

### 4.1.2.3 Language

When conducting the pilot study it was noticed that, even among third-year students who have a much higher average level of education than the typical inhabitant of Mankweng TRC, the use of English posed difficulties for some respondents. It was thus decided to translate the questionnaire into Sepedi, which is the common language of the area, to enable respondents to answer in their home tongue.

The use of structured interviews meant that interviewers had to translate answers on the spot. The process of translation, especially since it took place immediately, means that some of the semantical contents of responses inevitably got lost. The extent of such loss would be nearly impossible to ascertain afterwards, however.

### 4.1.2.4 Physical limitations

Because of time and financial constraints, interviews were limited to a total of 270. The study was conducted in three areas falling within the Mankweng TRC. The areas chosen were: i) Mankweng town, which is situated adjacent to the University of the North; ii) Makgwareng, a neighbourhood situated approximately ten kilometres south-east of Mankweng; and iii) Tholongwe, another neighbourhood located approximately ten kilometres from Mankweng in the opposite direction (see maps annexed).

As this geographical area has certain features not necessarily characteristic of the province as a whole, findings had to be interpreted as reflecting those of respondents in this particular area, and can not necessarily be seen as those of a wider population.

## 4.2 Methodology

Methodology will be discussed with regard to each part of the questionnaire, i.e. in terms of i) background information (part three of the questionnaire); ii) the Likert scale (part one); and iii) the Just Deserts scale (part two). Background information, although it is dealt with here first, appears last in the questionnaire (part three) - mainly because it was thought that respondents would provide personal information such as income and education more willingly at the end of an interview.

### 4.2.1 Rationale for obtaining background information

The main reason for selecting these questions is that independent variables had to be found that would be able to throw more light on the characteristics of people who score high and low on the two scales. The following variables were selected:

- Literature has shown *age* and *gender* to be important variables in connection with punitiveness levels (see sections 3.2.2.2.2 and 3.2.2.2.5 respectively);
- *level of education* and *socio-economic status* (as determined by family income) were also found to be related to punitiveness (sections 3.2.2.2.1 and 3.2.2.2.4 respectively); and
- *victim status* was used because of the hypothesis that being a victim causes one to be more punitive (section 3.2.2.2.6). This information was also used to describe the extent of crime and victimisation in the areas concerned (chapter five).

## **4.2.2 Likert scale construction**

The following main aspects have been taken into account when constructing the Likert scale:

### **4.2.2.1 Purpose**

The main reason for using the Likert scale was to devise a measuring instrument that would reflect the punitiveness levels of respondents. As mentioned in chapter one, the concept punitiveness can have various meanings. Because the Likert scale, according to Brillon, is not limited to only one aspect of severity, it provides a clearer picture of the numerous and complex factors that underlie punitive attitudes (1988:96). This scale contains statements with which respondents had to either agree or disagree. A neutral option was also included for those who were indecisive or uncertain.

### **4.2.2.2 Contents**

This study makes use of a 5-point scale. Whilst a 7-point scale may have been able to provide more detailed information due to the wider range of choices, the anticipated low educational levels of some respondents prohibited its use. Ten statements were made using the categories: 1. Agree strongly; 2. Agree, but not strongly; 3. Don't agree or disagree; 4. Disagree, but not strongly; and 5. Disagree strongly.

### **4.2.2.3 Requirements**

According to Bailey (1982:365), the Likert scale can be described as a technique for increasing the likelihood that, when devising a scale measuring some concept, the questions contained in such a scale

would measure the concept at hand, and not something else. Bailey sets out the procedure for Likert scale construction as follows:

1. Write a large number of questions thought to measure the dimension to be scaled;
2. select a sample of respondents representative of the population on which the scale will be used;
3. code all responses so that a higher score on a particular item would indicate a stronger agreement with the attitude being scaled (code 5 for either strong agreement with a punitive statement or strong disagreement with a negative one, and *vice versa*);
4. compute a scale score for each person by summing up his or her scores on all questions; and
5. analyse responses and select for the scale the items most clearly differentiating between the highest and lowest scores.

#### 4.2.2.4 Procedure

Findings obtained in the pilot study indicated that people are angry toward criminal offenders, demand tougher sentences and are sceptical about the ability of the criminal justice system to deal with the crime situation. A different way of stating this is to say that they manifested very high levels of punitiveness. The problem facing the present study was that statements had to be prepared that would be able to differentiate between respondents where it was expected that almost all respondents would react punitively. In some cases, extreme statements were devised, for example number 6: "child molesters are animals and should be treated like animals by the courts." Concerning nonpunitive statements, strong arguments for not punishing people

severely were also presented.

To aid a wider distribution of responses, and to avoid respondents reacting punitively to all questions, punitive statements were (in all cases) successively alternated with non-punitive statements. This control measure, it was hoped, would stimulate more careful consideration of each statement.

Taking the literature into account, seven broad categories indicating punitiveness and five representing non-punitiveness were devised<sup>8</sup>. Under each category, two or three statements typical of the category were chosen, totalling 25. Ten of these were selected for this study (printed in bold letters). Table 4.1 lists the 12 categories and the 25 statements. It also provides the reason underlying each statement's choice and whether similar statements appear in the literature.

**TABLE 4.1: THE SELECTION OF STATEMENTS USED IN THE LIKERT SCALE**

<b><u>A. PUNITIVE CATEGORIES</u></b>			
<b>CATEGORY:</b>	<b>PUNITIVE STATEMENTS:</b>	<b>REASONING BEHIND THE CHOICE OF STATEMENTS:</b>	<b>LITERATURE REFERENCES (WHERE APPLICABLE):</b>
1)Dissatisfaction with the C.J.S. <sup>9</sup> (Laws and courts):	a)"The laws applying to offenders are too lenient."	Tests dissatisfaction with the laws underlying sentencing.	Sebba & Nathan (1984:249); Walker, Hough & Lewis (1988:187)
	<b>b)"Courts are dealing too leniently with offenders."</b>	Here, the general feeling of people that sentences handed down by courts are too lenient, is tested.	Sebba & Nathan (1984:249); Walker, Hough & Lewis (1988:187); Corbett (1981:333)
	c)"Courts in our country are not effective in controlling crime."	The result of the perception that courts are dealing too lightly with offenders is tested.	-
2)Dissatisfaction with the C.J.S. (Police):	a)"The police are ineffective in maintaining law and order."	The focus here is on another segment of the criminal justice system – determining whether people feel that the police are to blame for the high crime rate.	Corbett (1981:330)
	b)"The police are not doing their job in apprehending criminals."	The same as above – but in this instance the statement wants to determine whether respondents attach blame to the police because they are not doing their work properly.	Corbett (1981:333)

<sup>8</sup> Opinions about the main aims of sentencing are not included here as they are tested in the open questions to the Just Deserts scale.

<sup>9</sup> "C.J.S." is an abbreviation of "Criminal Justice System."

3)Punishment not severe enough:	a)"Prisons are mere holiday camps for criminals."	The third segment of the C.J.S. is addressed: this statements wants to test whether people perceive conditions within prisons as too lenient.	According to Brillon (1988:90), more than 50% of his sample thought that prisons, nowadays, are nothing more than veritable hotels.
	b)"Criminal offenders are treated too leniently by the C.J.S."	This question directly addresses the question whether people think the C.J.S. deals too lightly with criminals.	D'Anjou <i>et al.</i> (1978:346) test punitiveness by determining public support for severer punishment to be laid down [by the courts].
4)General punitiveness: not dealing with the C.J.S.:	a)"Naughty children at school should receive corporal punishment from teachers."	The purpose with this category is to devise a way of measuring punitiveness on other terrains of life,	-
	b)"Parents should spank their children if they are disobedient."	In this instance, corporal punishment, which was abandoned in South Africa due to perceptions about its cruel nature, is hinted at.	-
5)A wish for more extreme types of punishment:	a)"The death sentence should be re-introduced for dangerous criminals."	In response to the perceptions mentioned above (namely that the criminal justice system is unwilling or unable to act against criminals), another measure of punitiveness found in the literature is respondents' insistence on more stringent measures toward criminal offenders.	Questions concerning the use of capital punishment as an indication of punitiveness has been widely used by, amongst others, Sebba & Nathan (1984:249); According to Walker & Hough (1988:219), studies from all over the world show that the public are overwhelmingly in favour of the death penalty. Also Cullen <i>et al.</i> 195:317.
	b)"Labour camps should be used to punish serious offenders."		D'Anjou <i>et al.</i> (1987:346) test punitiveness by enquiring about public support for the use of labour camps.
6)A wish for longer terms of punishment:	a)"All rapists should receive long terms of imprisonment"	In conjunction with the previous category (5), the question here is whether respondents are particularly discontent with certain categories of crime, and if they feel special attention should be given to these.	-
	b)"Car-hijackers should all be locked in prison for life."		-
7)Statements dehumanising criminal offenders (vengeance):	a)"Child molesters are animals and should be treated like animals by the courts"	Extreme punitiveness measures are mentioned here – some that would probably not have been considered in a law-abiding society. Agreement with such extreme statements would most probably reflect the irritation and helplessness of people concerning the crime situation.	-
	b)"People who steal should have their hands cut off."		-
<b><u>B. NONPUNITIVE CATEGORIES:</u></b>			
1)Arguments for a more lenient approach by the criminal justice system.	a)"Even murderers are human beings and should be treated with dignity and respect."	In this instance, respondents are reminded of the human rights of offenders (in opposition to rather extreme statements, such as number 7 above).	-

	b)"It would be inhumane to keep people in prison for twenty-five years."	In the same vein as the previous statement, this statement test the degree of tolerance of respondents.	According to Brillon (1988:90) only 38% of his sample agreed with this statement.
	c)"Living conditions inside prisons should be improved."	In opposition to 3(a) of the punitive statements.	Brillon (1988:90).
2)Sympathy with criminal justice officials.	a)"The police are doing their best to apprehend offenders and to assist the public."	These statements test the opposite perceptions from those in categories 1 and 2 under the punitive categories.	Corbett (1981:333)
	b)"The courts are doing their uttermost to ensure fairness toward everyone."		
3)Forgiveness.	a)"It is one's duty to forgive those who committed a crime against us."	In search for statements that would elicit less punitive responses, these statements hint on respondents' ethical and religious feelings pertaining to forgiveness.	-
	b)"The Bible tells us to forgive those who trespass against us."		
4)Sympathy with offenders' situations	a)"People who steal because they are hungry should not be punished for it."	In conjunction with the previous point, this statement seeks to elicit less punitive responses by hinting on people's pity for people less fortunate. The aim is that they should weigh this pity against the requirements of an orderly society.	-
5)Rehabilitation	a)"What criminals need is to be treated, not to be punished."	Here non-punitiveness is tested indirectly, by referring to rehabilitation as an alternative to imprisonment as such.	-
	b)Rehabilitation will provide a better solution to the crime problem than merely punishing people."		

#### 4.2.2.5 Interpretation of results

Marks from one to five were assigned to the level of punitiveness indicated by agreement or disagreement with statements (in other words for punitive statements a figure of five was attached to "strongly agree" and a one to "strongly disagree," and vice versa

with nonpunitive statements. For the ten statements, a possible total of 50 (10x5) could be obtained by the most punitive respondents and 10 (10x1) by the least punitive ones.

It must be remembered that the values obtained with this scale are relative in nature, and should only be used for comparing the relative punitiveness of respondents. In other words; because it is possible that one punitive statement could - theoretically speaking - measure higher if an absolute test were done, it can not be said that a respondent scoring 35 on this scale is necessarily more punitive than another one scoring 32. This scale is consequently most suitable for approximations and should be most correct when a large number of questionnaires is involved.

### **4.2.3 Construction of the Just Deserts scale**

Aspects that were taken into account when devising the Just Deserts scale are as follows:

#### **4.2.3.1 Purpose**

In terms of the purpose of this study, these questions attempt to attain responses that reflect a more calculated consideration of facts. In contrast to part 1, where mere negative or positive feelings were determined, these questions require of respondents to take certain aggravating and mitigating factors into account when making a decision. The reason for using "newspaper clippings" is that newspapers seem to be the source from which the public get most of their information regarding crime, court procedures and punishment (Walker, Hough & Lewis 1988:184). In addition, it also provides an opportunity to provide information in a more familiar and digestible

way.

#### 4.2.3.2 Description

Part 2 of the questionnaire consists of seven "newspaper clippings" in which summaries of real and imaginary court cases are described. Apart from information about the crime and some aggravating and mitigating factors, it is also mentioned that the offender - in each case - has already appeared in court and had been found guilty. The task of the respondent is, therefore, to put himself in the shoes of the sentencing official and sentence each imaginary offender. Five intervals of imprisonment, ranging from nil (0), are provided to choose from.

In addition, each article also contains the question: "What is the main reason why you would give this punishment?" The purpose with this open-ended question is to categorise the reasons behind their choices. By providing these questions, it was also anticipated that respondents would consider the facts pertaining to the ensuing descriptions more carefully before making their choices.

#### 4.2.3.3 Procedure

In each case imprisonment was the only punitive option provided. The reason for using only one method of punishment is to make comparisons possible. The use of imprisonment can also be substantiated as follows: Brillon has found that 78 per cent of his test sample of 1018 persons in Canada felt that one of the main reasons for sending offenders to prison lay in the fact that "it is the way justice keeps its promise that those who commit crimes will get the punishment they deserve," and that the public, in its majority, identifies

"criminal justice" with "imprisonment (1988:90)." Imprisonment can hence be seen as the most common way in which punishment serves justice in the public mind.

Nil (0) years imprisonment (or no punishment) is also provided as an option. It serves as an option for respondents who either feel that no sentence should be applied or that imprisonment is not the ideal way to deal with a particular offender.

The following criteria for questionnaires involving article-type questions by Walker & Marsh (1984:29) have been adhered to:

The duration of interviews should be approximately 25 minutes, as longer interviews tend to bore respondents. Concerning the stories in the newspaper cuttings, these writers indicate that they must be:

- "Of sufficient interest to engage the respondent's attention;
- not too long or complicated for respondents who were used to short, simple news items; and
- not too numerous (their pilot study showed that about five descriptions were as many as respondents could read without loss of interest)."

The only way in which this questionnaire deviates from these prescriptions is in the number of descriptions, where seven instead of five were used. The reason for this is that five descriptions were considered too few to approximate a balanced result on punitiveness. Even more articles (with built-in controls for comparing aggravating and mitigating factors) would have been needed to do a thorough investigation of the reasoning underlying just deserts, but this would have warranted a separate study. For the purposes of this

study, where respondents scoring high or low in terms of this scale are compared to respondents scoring high or low in the Likert scale, these seven articles were taken as sufficient.

#### 4.2.3.4 Selection of questions

Taking into consideration the criteria provided by Walker & Marsh (1984:29), seven article-type descriptions were constructed. These descriptions, the reasons why they were chosen and literature references are presented in table 4.2:

**TABLE 4.2 : THE SELECTION OF ARTICLE-TYPE DESCRIPTIONS FOR THE JUST DESERTS SCALE**

ARTICLE TITLE:	ARTICLE DESCRIPTION:	MOTIVATION FOR CHOICE OF ARTICLE:	LITERATURE REFERENCES:
1. Two policemen convicted of fraud.	<p>"2 policemen, Sergeants Alfred Kgolabe (27) and David Moloke (26), were found guilty on charges of corruption by the Groblersdal Magistrates Court. They allegedly contacted a suspect who was investigated for the theft of a tractor and asked him R10 000 in exchange for the dossier of the case. The suspect then contacted the Anti-corruption Unit of the Police and the two policemen were caught in the act when they received the money for the dossier. For their defense the two policemen said that they should not be punished too severely because they both had wives and children to take care of."</p>	<p>In this description, a straightforward case of police corruption is sketched. The only mitigating factor provided is their roles as providers for their families, a factor that is not usually taken into account by courts. It was expected that respondents would react punitively to this description.</p>	<p>This description is an adaptation of an article that appeared in Beeld (2 February 1998:9).</p>
2. The case of the hungry husband	<p>"Gossiping with her neighbours all day ended in violence for a housewife in Mankweng when her husband came home to find the house dirty and no meal ready for him. "She had all day to get me a meal ready and clean the place up a bit," said Dickson Mhlongo (31), who pleaded guilty to assaulting his wife. "It wasn't the first time, and I just lashed out." Mrs. Mhlongo sustained a cut lip,</p>	<p>In this story, the modern issue of wife abuse is posed against the traditional view of women as housekeepers. In a semi-acculturated sample such as this, interesting findings on the views of particularly men against women could be obtained. Mixed reactions were expected.</p>	<p>This description was taken from Walker &amp; Marsh (1984). It has been adapted, however, in terms of the names used and the area involved to make it more familiar to respondents<sup>10</sup>.</p>

<sup>10</sup> The real articles are annexed to this study.

	requiring a stitch.”		
3. The case of the jealous husband	<p>“A man was convicted yesterday of murder in the Pietersburg Magistrates Court.</p> <p>When Mr. Joseph Maponyane (41) came home unexpectedly from his job in Johannesburg, he found his wife in bed with his neighbour. Mr. Maponyane pleaded guilty on a charge of murder and said that he intended to kill the man when he found him in his bed.</p> <p>The victim sustained severe blows to his head when Mr. Maponyane hit him with his fists. He later died in hospital because of his injuries.”</p>	This description is also fairly well balanced, where respondents had to weigh the rights of the offender against that of the victim. Mixed reactions were expected.	This case is from Strijdom’s study of “Black people’s perceptions of the seriousness of crimes” (1979), where it appears as follows: “A man kills another man whom he finds in bed with his wife.” Respondents in his study, notwithstanding the seriousness of the actual crime, placed it quite low on the seriousness scale <sup>11</sup> . This description was expanded a little and was placed in a local setting.
4. Child assault	<p>“A baby girl of 18 months and her two young brothers were taken to a Place of Safety after they have been severely assaulted by their mother over a long period of time.</p> <p>According to the doctor who had examined them, the children were underfed. The little girl had severe nappy rash all over her buttocks and bruises on her thighs whilst the two boys’ bodies were covered in bruises and lesions. They were allegedly hit with a cricket bat and a sjambok.</p> <p>The mother said in court that she was very sorry for what she had done, but that she had no money to look after the children as her husband had left her.”</p>	This case addresses the issue of child assault, weighing the guilt of the mother against the difficulties that she faces – difficulties that are typical of people in poor communities and which may elicited sympathy amongst some of the respondents.	This description is an adaptation of an article that appeared in Beeld of 16 January 1998.
5. The case of sex before work	<p>“A woman from Tzaneen, Mrs. Lettie Motjale (28), was shocked to discover that a foreman at a clothes factory was willing to give her a job, but on condition that she first had sex with him.</p> <p>Mr. Moses Maziba (38) pleaded guilty on a charge of sexual harassment in the Tzaneen court. Mr. Maziba is a husband and a father of four children.”</p>	In this description, the issue of women’s rights is raised. Although the offence as such is not as serious (it does not state whether sexual intercourse actually took place), women’s reactions would be quite interesting.	Again, the basic description is from Strijdom’s study (1979). In this study, it appeared as follows: “A foreman says to a woman who wants a job: I will only give you the job if you will have sex with me.” Interestingly enough, respondents in this study rated this statement more serious than the murder (3,35 to 3,05) mentioned above.
6. The case of the ex-boxer who was challenged	<p>“A broken jaw was the result of a challenge to a fight outside a shebeen in Seshego. But the man who challenged Mr Moses Mamabolo (30), did not know he had been a welterweight boxer.</p> <p>Mamabolo pleaded guilty to a charge of</p>	Although the offender in this case pleaded guilty to a charge of assault, respondents had to weigh the challenge made by the victim against the fact that	This article was also from the study by Walker & Marsh (1984), but had been adapted in terms of names and places to local conditions.

<sup>11</sup> This description scored 3,05 points on his scale, and was placed lower than, for example, “A man drives a car while he is drunk (3,42),” and “An official demands bribe money before he will give a man a licence (3.20).”

	causing bodily harm. He told the court he thought the other man knew he was a boxer."	the boxer could have told him that he was a boxer or that he could have walked away.	
7. Hoax policeman hijacks truck	"A young man (19) was convicted of hijacking a truck last year in July. A driver of a large company was robbed of his truck after he was ordered to stop by a man who was dressed like a policeman. The policeman stood at the side of the road without a police car. The man aimed a gun at Mr Klaas Motjale (46) whilst four other men appeared out of the bushes. Mr Motjale was forced to climb into the back of the truck and was released fifty kilometers further after he was forced to take off his clothes. The robbers, of whom only the offender could be caught, got away with sweets and cigarettes to the value of a hundred thousand rands."	Just as in the first case, this one is a fairly straightforward case of car-hijacking. Only one mitigating circumstance is provided, namely that the offender is still young.	This description was adapted from an article in Beeld (22 September 1998:8). It was chosen as a typical case of truck hijacking in South Africa.

#### 4.2.3.5 Cautionary remarks

Two cautionary remarks with regard to the use of "article-type" descriptions have to be made<sup>12</sup>:

##### *4.2.3.5.1 The representativeness of descriptions*

The first problem characterising studies of this nature lies in the interpretation of results: To what extent can results obtained with such a limited number of crime descriptions be seen as representative of public perceptions about crime in general? To make a survey representative of all types of crimes (together with all possible permutations) would be an enormous task, further complicated by the question of perceptions about mitigating and aggravating circumstances.

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<sup>12</sup> Although section 4.2.3.5.2, concerning the amount of information provided to respondents in crime descriptions, have already been discussed in section 4.3.2, it is repeated here because of its relevance to the construction of the Just Deserts scale in particular.

The justification for the limited number of crime descriptions used in this study is that:

- Because a specific hypothesis is tested here (in other words a certain trend amongst respondents), it was deemed unnecessary to try and provide a complete picture on perceptions about just deserts;
- other studies of this kind have used as many or even less questions to obtain perceptions; and
- providing too many questions would have made questionnaires too long.

#### ***4.2.3.5.2 The amount of information provided***

Another problem to be dealt with is how much information to provide in crime descriptions. If the purpose were to compare these descriptions to actual court cases, an elaborated description of the crime would have to be provided including a wide range of specifics. This would obviously limit the number of cases that could be included in questionnaires. A further complication is that, as more and more information is included, such descriptions invariably become more case-specific, making generalisation of the findings nearly impossible.

Where descriptions occur in the form of single sentences, on the other hand, such as in the study by Strijdom (1979)<sup>13</sup>, it was found that respondents tend to give their own contents to facts that were "left out," such as the characteristics of the criminal, the motives why such crime was committed, etc. In addition, what happens in

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<sup>13</sup> Examples of one-sentence descriptions can be found in Table 4.2, where

reality is that respondents often think in terms of what they read in newspapers when considering their responses.

## 4.3 Summary

The construction of the questionnaire should be seen in terms of its goals. It consists of three parts:

- Part one creates a Likert scale measuring the degree of punitiveness in terms of agreement with punitive statements and disagreement with non-punitive statements;
- Part two contains a Just Deserts scale testing both measured responses to article-type descriptions and reasons respondents provide for their choices; and
- Part three includes questions aimed at obtaining background information.

Certain external factors that negatively influenced the construction of the questionnaire had to be taken into account. Most of these factors have to do with the fact that structured interviews had to be used in place of written questionnaires because of some respondents' inability to read or write. Structured interviews have the disadvantage that interviewers have to be used, an aspect that may have influenced the authenticity of responses, especially since this questionnaire calls for interpretation and translation.

Concerning the construction of the Likert scale, ten statements testing the degree of punitiveness were created. In each case,

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some of that used by Strijdom (1979) are mentioned.

respondents had to indicate how much or how little they agreed with them. The selection of statements was the result of first drawing up categories indicating public punitiveness as evident from the literature, drawing up different statements that would be representative of each and lastly choosing ten of these. A factor that had to be taken into account was the extremely high level of punitiveness of the average respondent found in the pilot study. Some of the punitive statements consequently had to be rather extreme and non-punitive statements very well motivated to enable any sort of distribution to be drawn.

With regard to the Just Deserts scale, various problems face the researcher who attempts to obtain valid and representative findings:

- In the first place, the representativeness of crime descriptions of *crime as such* will always be suspect, taking into account the numerous forms of crimes, their permutations, and the infinite combinations of mitigating and aggravating circumstances that can be coupled to it; and
- secondly, the amount of information provided in such descriptions are also problematic as too little information leads to respondents filling in the "missing aspects" themselves whilst too much information limits the representativeness of findings.

Furthermore, according to Walker & Marsh, people have limited attention spans, and better results could be obtained if descriptions are kept interesting, and not too many are posed (1984:29). The descriptions used in this study therefor rest on a compromise between these factors: They do not pretend to be representative of all types of crime but focus rather on presenting cases that are interesting to

read and cover contemporary issues. This is in line with the approach followed by Walker & Marsh (*Ibid.*, p.29). This approach could be justified by arguing that the primary purpose for using this scale lies on testing a certain hypothesis and that it does not assume to present an overall picture of crime.

Concerning the background information, variables were selected because of their relevance to punitiveness as obtained in the literature study (chapter three).

# CHAPTER 5: DEMOGRAPHIC PROFILE OF MANKWENG RURAL LOCAL COUNCIL

## 5.1 Introduction

The last aspect to be discussed before the research findings can be presented, is a brief background study of the people who acted as respondents.

This chapter provides a brief exposition of the demographic particulars of Mankweng RLC. It does not attempt to provide a comprehensive picture of the area involved, but focuses instead on those aspects that are relevant to this study. Mankweng Rural Local Council (RLC) was chosen because it serves the purpose of the study in terms of being a Black residential area and also because it provides an interesting combination of people of higher and lower socio-economic and educational status. Another reason for its selection was because of its close proximity to the University of the North, which made it more accessible in terms of fieldwork purposes.

Demographic particulars on the Northern Province will firstly be discussed under section 5.1. Demographic aspects of Mankweng RLC that will be discussed are gender distribution, age distribution, educational levels, and language distribution. Maps on Mankweng RLC, showing its relative position within the North Province are presented in Annexure C.

## 5.2 The Northern Province

According to the 1995 October Household Survey (1998:1), the Northern Province covers ten per cent of the geographical area of South Africa. The population density is 44 people per km<sup>2</sup>, which is about a quarter higher than the 34 per km<sup>2</sup> for the country as a whole. Concerning the population size of the province, the 1995 Household Survey (*Ibid.*, p.1) estimates its population to be approximately 13 per cent of the total population of South Africa<sup>14</sup> (*Ibid.*, p.7). If the population of South Africa were 37,9 million in 1997 (*Ibid.*, p.1), this means that about 4,9 million people would have been living in this province at that stage. As to population distribution, black people represent 95 per cent of the inhabitants (compared to the national average of 76 per cent), whilst the number of whites amount to 3 per cent, coloured people to 2 per cent, and Indians to 0,1 per cent (*Ibid.*, p.7). The three main language groups in the province are Sepedi (57%), Xitsonga (23%) and Tshivenda (12%).

Concerning the level of education of the adult population (20 years and older), the Northern Province fares consistently worse than the rest of the country. Twenty-seven per cent of its inhabitants have had no schooling compared to 13 percent of the country as a whole. Concerning other categories, 19 per cent of the population in this province falls in the category grade one to seven compared to a national figure of 24 per cent; in the category grades eight to eleven, the comparative figures are 29 per cent to 35 per cent;

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<sup>14</sup> Based on the 1996 population census estimates.

Matric; 15 per cent to 19 per cent and higher qualifications; seven per cent to nine per cent (*Ibid.*, p.14).

As for unemployment rates, 33 per cent of the male economically active population are unemployed compared to 55 per cent of women (*Ibid.*, p.34). Thirty-three per cent of males earn R999 per month or less (against the national figure of 31 per cent), whilst the percentage of women earning R999 or less is 41 per cent (compared to the national figure of 31 per cent (*Ibid.*, p.34).

## **5.3 Mankweng RLC**

As mentioned above, geographic details concerning age, gender, qualification levels and language distribution will be discussed for Mankweng RLC in particular.

### **5.3.1 Gender and age distribution**

According to the 1996 Census figures, Mankweng has 158848 inhabitants, of which 72254 (45%) are males and 86594 (55%) women. Table 5.1 presents the gender and age distribution of black people in Mankweng RLC. Other population groups are not included as whites form only 0,8% of the population whilst there are but 109 coloured people and 24 Indians living in this area. In addition, this study deals exclusively with the opinions of black people.

**TABLE 5.1: AGE-GENDER DISTRIBUTION OF MANKWENG RLC (N=158846)**

<b>AGE</b>	<b>MALE</b>	<b>FEMALE</b>	<b>TOTAL</b>	<b>TOTAL AS % OF TOTAL POPULATION</b>
0-4	10584	10809	21393	13,64
5-9	11310	11517	22827	14,56
10-14	10988	11638	22626	14,43
15-19	9548	10066	19614	12,51
20-24	6728	7666	14394	9,18
25-29	4314	5846	10160	6,48
30-34	3437	5099	8538	5,45
35-39	2980	4229	7209	4,60
40-44	2456	3502	5958	3,80
45-49	1942	2574	4516	2,88
50-54	1390	2285	3675	2,34
55-59	1295	2015	3310	2,11
60-64	946	2136	3082	1,97
65-69	956	2001	2957	1,88
70-74	721	1249	1970	1,26
75-79	537	1107	1644	1,05
80-84	265	574	839	0,54
85+	201	500	701	0,45
Unspecified	675	699	1374	0,88
<b>Total</b>	<b>71273</b>	<b>85512</b>	<b>156785</b>	<b>100,01</b>

(Source: South Africa Census 96, Statistics South Africa)

The predominance of younger people is evident from these figures as more than 55 per cent falls in the first four age groups (19 years

and younger). When the percentages above are recategorised into four age groups and compared to the age distribution of the province as a whole, the following table can be compiled (with the "nonspecified" categories left out):

**TABLE 5.2 : COMPARISON OF BLACK AGE DISTRIBUTION IN MANKGWENG RLC AND THE NORTHERN PROVINCE**

<b>AGE GROUPS</b>	<b>MANKWENG RLC (%)</b>	<b>NORTHERN PROVINCE (%)</b>
0-4	14	18
5-14	29	30
20-64	52	48
65+	5	4
<b>Total</b>	<b>100,0</b>	<b>100,0</b>

(Source for Northern Province figures: 1995 October Household Survey).

Mankweng RLC has a larger percentage of respondents in the middle age category (20-64 years) than the rest of the Northern Province. If it is true, as speculated in the 1995 October Household Survey (1998:9), that a large proportion of economically active males leave for other provinces in search of job opportunities, the difference between the figures for Mankweng RLC and the province can possibly be ascribed to the presence of the University of the North as job provider in this area.

### **5.3.2 Educational levels**

Based on figures obtained in the 1996 Census, the highest educational levels by gender for Mankweng RLC are as follows:

**TABLE 5.3: HIGHEST EDUCATION LEVEL BY GENDER, MANKWENG RLC  
(N=158849)**

<b>EDUCATIONAL LEVEL</b>	<b>MALE</b>	<b>FEMALE</b>	<b>TOTAL</b>
NO SCHOOLING	12565	17000	29565
GRADE 1	1124	1051	2175
GRADE 2	1865	1727	3592
GRADE 3	3370	3272	6642
GRADE 4	3758	3869	7627
GRADE 5	3550	3908	7458
GRADE 6	3557	4147	7704
GRADE 7	4989	6161	11150
GRADE 8	5542	7023	12565
GRADE 9	3832	4983	8815
GRADE 10	4531	5816	10347
GRADE 11	3715	5069	8784
MATRIC	5031	6736	11767
MATRIC & CERTIFICATE/DIPLOMA	934	1225	2159
MATRIC AND BACHELORS DEGREE	306	307	613
MATRIC AND HONOURS DEGREE	52	37	89
MATRIC AND MASTERS DEGREE	28	18	46
MATRIC AND DOCTORS DEGREE	9	11	20
UNSPECIFIED	1881	2263	4144
AGED<5	10693	10943	21636
OTHER	924	1027	1951
<b>TOTAL:</b>	<b>72256</b>	<b>86593</b>	<b>158849</b>

(Source: South Africa Census 96, Statistics South Africa)

As mentioned under section 5.1, the qualification levels for the Northern Province is much lower, on average, than that for the rest of the country. As can be inferred from the above table, the number of inhabitants having had no schooling in Mankweng (29565 = 19%) is somewhat higher than that of the province as a whole (23%), but still much higher than that of the national figure of 13 per cent.

### 5.3.3 Language distribution

The last demographic variable of Mankweng RLC that will be discussed here is the language distribution in this area. This factor is important for the purposes of the translation of the questionnaire. The different languages used, as obtained from the 1996 Census, are as follows:

**TABLE 5.4: FIRST LANGUAGE BY GENDER: MANKWENG RLC (N=158848)**

LANGUAGE	MALE	FEMALE	TOTAL
ISINDEBELE	182	243	425
ISIXHOSA	32	31	63
ISIZULU	66	66	132
SEPEDI	68788	82773	151561
SESOTHO	297	299	596
SETSWANA	154	203	357
SISWATI	67	61	128
TSHIVENDA	121	127	248
XITSONGA	807	889	1696
AFRIKAANS	578	594	1172
ENGLISH	142	202	344

OTHER	244	234	478
UNSPECIFIED	776	872	1648
TOTAL	72254	86594	158848

(Source: South Africa Census 96, Statistics South Africa)

If the "Unspecified" category is not included, this table shows Mankweng RLC to be almost exclusively inhabited by speakers of Sepedi (96 per cent of the population), which also indicates a high level of cultural homogeneity.

## 5.4 Summary

The Northern Province can be described as a relatively large province, which houses approximately 13 per cent of the population of the country. This population, however, is characterised by lower levels of education and lower income than the rest of the country. Furthermore, the age distribution of this province shows its inhabitants to be somewhat younger than the total population, which indicates a higher birth rate in this region than for the country as a whole. More than 95 per cent of the population is black, with the Northern Sotho (Sepedi) the most, and also the Shangaan people and the Venda people living in the north-eastern part of the province.

It can probably be accepted that Mankweng RLC is mostly the same in many respects than the rest of the province, except that the University adds a greater variety in terms of educational level and household income than would have been the case in most other rural areas in this province.

## CHAPTER 6: RESEARCH FINDINGS

After having analysed how this study fits in with regard to the subject-terrain of the Penology (chapter two), literature findings on this terrain in similar studies (chapter three) and demographic particulars of people in this area (chapter five), chapter six presents the research findings. It should be read together with chapter four, where the motivations for its logical construction was set out and consists of the following four main parts:

1. Findings on demographic variables (section 6.1);
2. basic findings concerning punitiveness (section 6.2);
3. further exploration of data (section 6.3); and
4. conclusions (section 6.4).

According to Mouton & Marais, procedures used for analysis should be described in full (1990:194). This chapter attempts to keep to this instruction, explaining both the methods that are used and the way in which they are used.

### 6.1 Demographic variables

The information under section 6.1 serves two purposes:

1. To provide, in conjunction with chapter five, background information to the study as a whole; and
2. to present figures that will be used in conjunction with the punitive-levels of respondents.

### 6.1.1 Area of residence

Equal numbers (90) of questionnaires were distributed in Mankweng, Makgwareng, and Tholongwe, for a total of 270.

### 6.1.2 Gender and age

The gender and age frequency distribution of the sample, taking into account the areas of residence, can be cross-tabulated as follows:

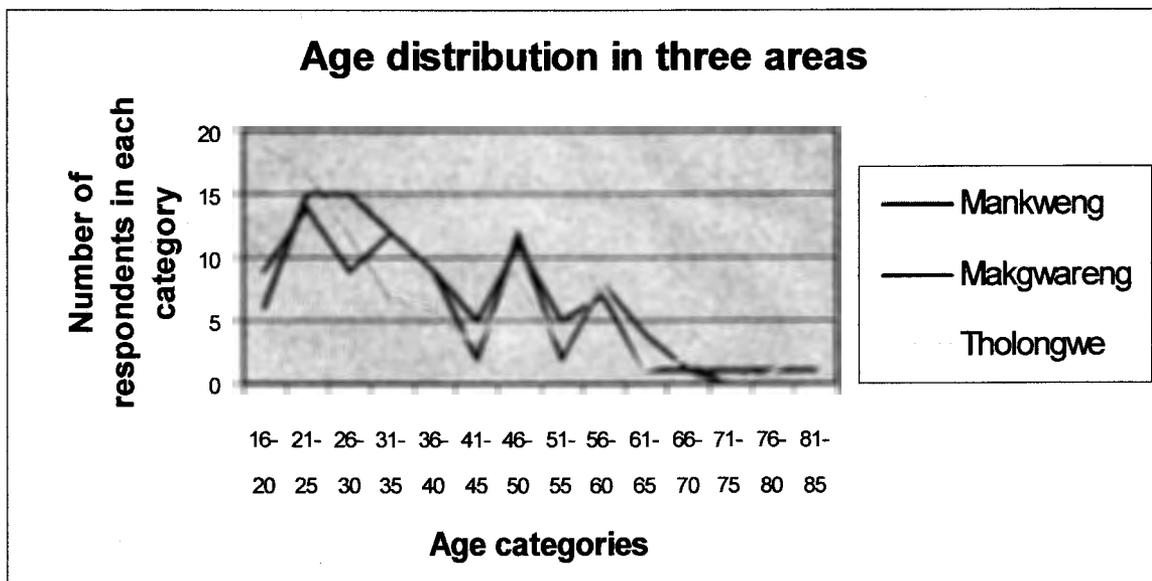
**TABLE 6.1 : GENDER-AGE-RESIDENCE DISTRIBUTION OF RESPONDENTS  
(n=270)**

AGE CATEGORIES:	MANKWENG			MAKGWARENG			THOLONGWE			TOTALS:
	M	F	T	M	F	T	M	F	T	
16-20	5	1	6	9	0	9	9	10	19	34
21-25	9	6	15	10	4	14	10	7	17	46
26-30	9	6	15	4	5	9	6	6	12	36
31-35	7	5	12	2	10	12	0	7	7	31
36-40	3	6	9	4	5	9	2	4	6	24
41-45	2	3	5	1	7	8	2	1	3	16
46-50	6	5	11	1	11	12	4	5	9	32
51-55	3	2	5	0	2	2	1	2	3	10
56-60	2	5	7	4	4	8	5	3	8	23
61-65	1	0	1	3	1	4	0	1	1	6
66-70	0	1	1	1	0	1	1	1	2	4
71-75	1	0	1	0	0	0	0	0	0	1
76-80	1	0	1	1	0	1	1	0	1	3
81-85	0	1	1	0	1	1	1	1	2	4
TOTAL:	49	41	90	40	50	90	42	48	90	270

These figures show a majority of female respondents in Makgwareng and Tholongwe. This might be the result of husbands working outside these areas. Mankweng differs in this respect, since many male students reside there, who are often available between classes (the time when interviews were conducted).

Concerning the age distribution, the average for the total sample in terms of the category distribution is 4,78, which can be approximated to 33 years. 54 per cent of the respondents are 35 years or younger. A comparison of the distributions of age groups in the three areas appears in graph 6.1:

**GRAPH 6.1: AGE-RESIDENCE DISTRIBUTION OF SAMPLE (n=270)**



This graph shows a preponderance of younger people (below 20 years)

in Tholongwe. The age distribution in the other two areas seems to be fairly similar. In all cases, the curve gradually levels off toward the older ages, although there is a sudden rise in the age category 46-50. The reason for this is unknown, but might be due to people living there who are beyond their most productive years of manual labour or people who are unemployed because of low levels of education.

### 6.1.3 Qualifications

The average qualification level obtained by the 270 respondents is 9,55 years of schooling (somewhere between standards seven and eight). The standard deviation for this is 3,8 years and the standard error of the mean accordingly 0,23 years.

A cross-tabulation of qualifications, gender and residential area turns up as follows:

**TABLE 6.2: QUALIFICATIONS-GENDER-RESIDENCE DISTRIBUTION OF RESPONDENTS (n=270)**

QUALIFICATIONS OBTAINED:	MANKWENG			MAKGWARENG			THOLONGWE			TOTALS:
	M	F	T	M	F	T	M	F	T	
NO SCHOOL	0	3	3	1	2	3	2	7	9	15
GRADE 1	0	0	0	0	0	0	0	0	0	0
GRADE 2	1	0	1	0	0	0	1	0	1	2
GRADE 3/STD. 1	0	0	0	1	2	3	3	0	3	6
GRADE 4/STD. 2	0	1	1	0	2	2	2	2	4	7
GRADE 5/STD. 3	2	0	2	2	0	2	1	1	2	6
GRADE 6/STD. 4	0	1	1	3	4	7	2	4	6	14
GRADE 7/STD. 5	1	4	5	0	3	3	2	4	6	14
GRADE 8/STD. 6	2	5	7	7	8	15	3	2	5	27

GRADE 9/STD. 7	3	3	6	0	4	4	3	6	9	19
GRADE 10/STD. 8	10	3	13	4	5	9	7	2	9	31
GRADE 11/STD. 9	4	2	6	8	6	14	4	5	9	29
GRADE 12/STD 10	12	11	23	11	9	20	9	12	21	64
MATRIC + 1 YEAR	1	0	1	1	0	1	1	0	1	3
MATRIC + 2 YRS.	1	3	4	1	2	3	1	1	2	9
MATRIC + 3 YRS.	8	4	12	0	2	2	0	1	1	15
MATRIC + 4 YRS.	4	1	5	1	1	2	1	1	2	9
TOTAL:	49	41	90	40	50	90	42	48	90	270
AVERAGE:	11,45	9,93	10,76	9,75	9,14	9,41	8,71	8,31	8,5	9,55

These figures show residents of Mankweng, the area adjacent to the University of the North, to have the highest average qualification levels, namely 10,76 years of schooling. This might be ascribed to the fact that many of its residents are either working at the university or studying there. Makgwareng has the second highest qualification figure, namely 9,41, while respondents in Tholongwe have, on average, 8,5 years of schooling. It is interesting to note that, in each case, the average qualification for men is higher than that for women, with a difference of 1,52 between men and women in Mankweng, 0,61 in Makgwareng and 0,4 in Tholongwe.

### 6.1.4 Household income

Figures on family income are as follows:

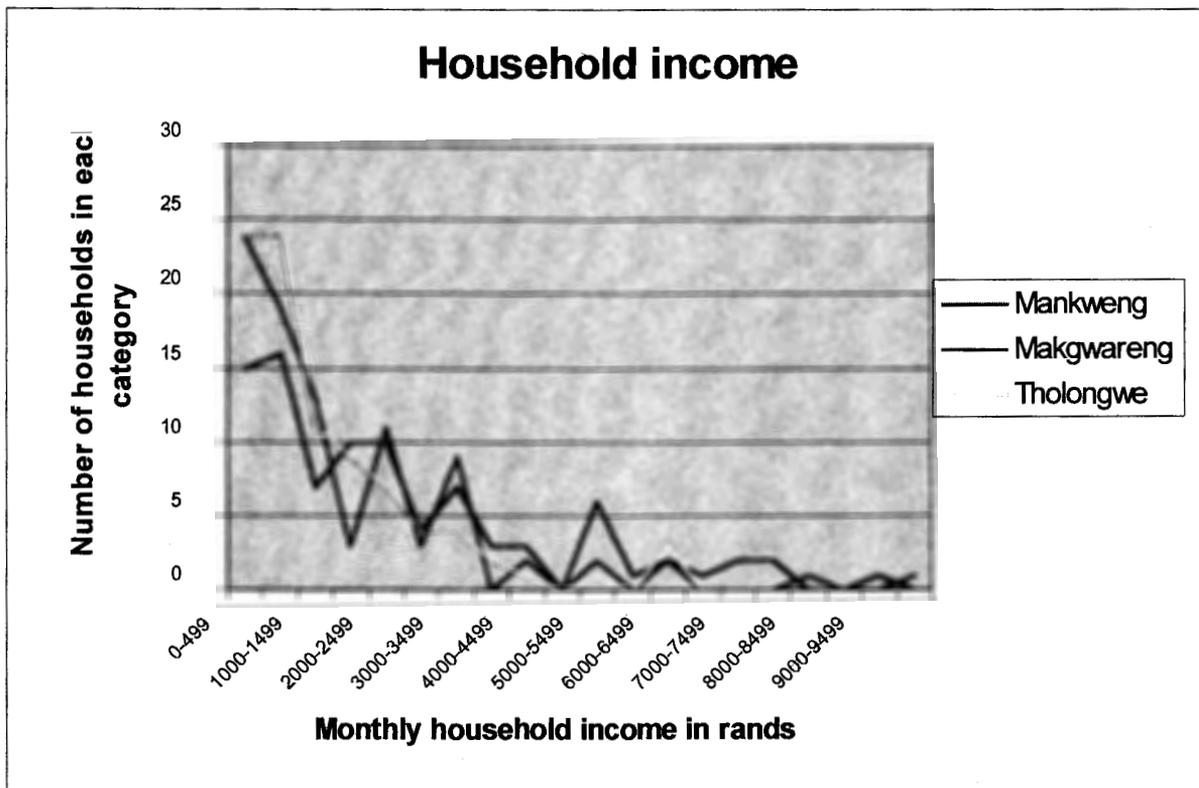
**TABLE 6.3: HOUSEHOLD-RESIDENCE DISTRIBUTION OF RESPONDENTS****(n=270)**

<b>INCOME (IN RANDB):</b>	<b>MANKWENG</b>	<b>MAKGWARENG</b>	<b>THOLONGWE</b>	<b>TOTAL:</b>
0-499	15	24	24	63
500-999	16	19	24	59
1000-1499	7	13	11	31
1500-1999	10	3	9	22
2000-2499	10	11	7	28
2500-2999	4	3	4	11
3000-3499	7	9	4	20
3500-3999	3	0	2	5
4000-4499	3	2	1	6
4500-4999	0	0	0	0
5000-5499	6	2	1	9
5500-5999	1	0	0	1
6000-6499	2	2	3	7
6500-6999	1	0	0	1
7000-7499	2	0	0	2
7500-7999	2	0	0	2
8000-8499	0	1	0	1
8500-8999	0	0	0	0
9000-9499	1	0	0	1
9500-9999	0	1	0	1
<b>TOTAL:</b>	<b>90</b>	<b>90</b>	<b>90</b>	<b>270</b>
<b>AVERAGE INCOME:</b>	<b>5,344</b>	<b>3,911</b>	<b>3,911</b>	<b>4,207</b>

This table shows 122 (or 45 per cent) of households earning less than R1000,00 per month and 203 (75 per cent) less than R2500,00 per month.

A comparison between household incomes in the three areas can be presented as follows:

**GRAPH 6.2: HOUSEHOLD INCOME IN THREE RESIDENTIAL AREAS**



Although the question of occupation was not included in the questionnaire, there seems to be two main categories: households earning very little (probably people doing manual labour or those who are unemployed) and people having government jobs (including people who work at the university, teachers, and nurses). This may be the reason why some households earn so much in comparison with the majority. The sudden upheaval of incomes between R5000,00 and R5499,00 in Mankweng (where many of the respondents work at the university) seems to confirm this deduction.

### **6.1.5 Victim status**

In response to the question: "Were you a victim of crime during the last two years?" 193 respondents indicated that they were not; 49

were a victim once; 26 a victim twice; and 2 a victim three times. This means that, on average, 29 per cent of respondents indicated that they have been victims of crime, once or more, during the last two years. Compared with national figures according to which 29 per cent of individuals in South Africa have experienced, on average, at least one crime against them during the five-year period 1993-1997 (South Africa 1998:17), the figure of 29 per cent in a two year period is higher than average because of the shorter time span involved.

As to the types of crime that they have been victims of, the following data have been obtained:

**TABLE 6.4: FREQUENCY-TYPE DISTRIBUTION OF CRIME VICTIMS**

<b>TYPES OF CRIME A VICTIM OF:</b>				
<b>TYPE OF CRIME:</b>	<b>ONCE</b>	<b>TWICE</b>	<b>3 TIMES</b>	<b>TOTAL:</b>
ASSAULT	19	5	1	25
ROBBERY	13	3	1	17
THEFT	20	8	0	28
RAPE	6	0	0	6
MOTOR THEFT	3	0	0	3
HOUSEBREAKING	13	6	0	19
OTHER	3	6	0	9
<b>TOTAL:</b>	<b>77</b>	<b>28</b>	<b>2</b>	<b>107</b>

## 6.2 Basic findings on punitiveness

The purpose of this section is to present the basic findings on punitiveness. The main hypothesis, namely that there is a significant relationship between scores obtained in the Likert scale and that obtained in the Just Deserts scale is also tested here. The following four aspects are dealt with:

- Findings with regard to Likert scale statements;
- findings on just deserts;
- findings on correlations between demographic variables and punitiveness; and
- findings on responses to open-ended questions.

In addition to the sum of responses to each scale (in other words the coded aggregates of the ten responses to the Likert scale and the seven responses to the Just Deserts scale), derivatives of these scales were also created for analysis purposes. In the case of the Likert scale, the combinations TP135710 (the sum of responses to statements 1,3,5,7, and 10) and TP 137 (the sum of responses to 1,3, and 7) were created because they present the most balanced responses to the statements (in other words represented those cases that are the nearest in approaching an equal number of negative and positive responses). The same procedure was followed in the case of the Just Deserts scale where three sub-combinations, JDT1-5, JDT1-6, and JDT2-6 were created.

For the sake of writing economy, the following abbreviations are used in this chapter:

**TABLE 6.5: LIST OF ABBREVIATIONS**

<b>ABBREVIATION</b> :	<b>ABBREVIATION FOR:</b>
TP	Total of individual punitive scores, i.e. the sum of scores obtained in 10 Likert scale questions.
TP137	Sum of coded responses to statements 1,3, and 7 on the Likert scale.
TP135710	Sum of coded responses to statements 1,3,5,7, and 10 on the Likert scale.
JDT	Sum of coded responses of all 7 questions in the Just Deserts scale.
JDT1-5, ETC.	Sum of coded responses to questions 1 to 5 in the Just Deserts scale, etc..
HSL	Highest scorers on the Likert scale, that is those 15% of respondents who obtained the highest scores, in this case ranging from 46 to 50 (out of a possible 50). Although 15% equals 40,5, the number of HSL are 51 due to the number of respondents scoring 46.
LSL	Lowest scorers on the Likert scale, referring to the 15% respondents who obtained the lowest scores, ranging in this case from 18 to 33. 44 respondents fall in this group.
HSJ	Highest scorers on the Just Deserts scale refer to the top 15% in the Just Deserts scale, amounting to 45 respondents. The scores obtained by these respondents range from 18 to 25.
LSJ	Low scorers on the Just Deserts scale refer to those 59 respondents (the bottom 15%) who scored between four and ten on the Just Deserts scale.

### **6.2.1 Findings with regard to Likert scale statements**

The average totals of the ten questions posed in part 1 of the questionnaire (the Likert scale) are as follows:

**TABLE 6.6: AVERAGES OF RESPONSES TO LIKERT SCALE**

QUESTION NO.	DESCRIPTION OF QUESTION:	AVERAGE OF RESPONSES:
1.	Murderers are human beings...	3,74*
2.	Rapists should be put in prison for 20 years.	4,64
3.	Hungry thieves shouldn't be punished.	3,39
4.	Sentences handed down by courts are too lenient.	4,56
5.	It is better to forgive and help criminals...	3,76
6.	Child molesters are animals...	4,21
7.	The purpose of the prison is to rehabilitate...	2,66
8.	The death sentence should be reintroduced.	4,10
9.	Sentences are severe enough.	4,23
10.	Disobedient pupils should be whipped.	3,98
	<b>TOTAL AVERAGE:</b>	<b>3,93</b>

\*Possible scores range between 1 and 5, with a mid-point of 2,5.

This table shows statements 2, 4, 6, 8 and 9 to have drawn the most punitive responses. Respondents seem, in particular, to have little sympathy with rapists and child molesters. Furthermore, the great majority of respondents thought that the sentences laid down by our courts are not severe enough. The statement about the reintroduction of the death sentence has also received a high level of agreement.

Although this table is unable to tell just *how* punitive respondents are (because of the lack of something to measure it against), agreement or disagreement with some of the statements may give some idea:

Giving a minimum of 20 years imprisonment for all rapists (no

matter what factors may have played a role) and a degrading statement like "treating child molesters like animals" both elicited answers averaging between four and five ("agree" and "agree strongly") on the scale. The fact that people would agree to statements such as these shows quite a strong negative feeling towards some criminals.

□ Question 8, that deals with the reintroduction of the death sentence, was also met with a highly punitive response averaging 4,23, which means that 210 out of 270 respondents (78%) agreed or strongly agreed with the statement. An interesting aspect is that the death sentence is strongly disapproved of in ANC-circles, the party for which the majority of people in the Northern Province have voted. Agreement for this statement can consequently be interpreted as support for it in spite of their political affiliation. This also applies, although to a lesser extent, to statement ten, which tests opinions on corporal punishment.

□ Rehabilitation (statement seven), forgiveness (five), and compassion toward offenders (one, three and five), on the other hand, are reasons why people reacted somewhat less punitive. The fact that reactions were less severe should not be seen as respondents being non-punitive, however. Even question seven which tested punitiveness indirectly by referring to rehabilitation, and of which the score was by far the lowest, has had more punitive than non-punitive responses. These figures indicate little tolerance toward offenders, crime and the criminal justice system. The fact that the indicators used here were purposively skewed toward obtaining less punitive replies (see chapter four) seems to confirm this conclusion.

Scores between the control questions (four and nine) turned out to be fairly similar - 4,56 to 4,23. The difference of 0,33 can perhaps be ascribed to respondents who did not understand the question properly or to respondents who did not feel very sure about a fitting response.

## **6.2.2 Findings on just deserts**

In this section, punishment scores given to the seven questions in part B of the questionnaire are analysed.

As mentioned in chapter four, respondents were to place themselves in the roles of sentencing officials and were told that imprisonment was the only form of punishment available. Important to notice here is that the lengths of imprisonment from which respondents had to choose cannot necessarily be seen as true reflections of what they would have chosen had, for example, an open question been asked. They were compelled to choose one of five options, ranging from nil (meaning no imprisonment) in equal increments up to four (whose value depends on the crime description). Although such values would differentiate between a more punitive and a less punitive respondent, they cannot be taken as true indications of exact measurements because i)intermediary values, and ii)larger values were not provided. These values are subsequently used for comparative purposes and not as precise indications of time imprisonment.

Concerning respondents' understanding of these questions, responses to these and to the open questions succeeding each one, indicate that both the descriptions and the requirements were clear to most respondents.

Average responses to the seven questions were as follows:

**TABLE 6.7: AVERAGES OF RESPONSES TO JUST DESERTS SCALE**

QUESTION NO.	DESCRIPTION OF QUESTION:	AVERAGE OF RESPONSES:
1	Policeman convicted of fraud	2,94*
2	The case of the hungry husband	0,76
3	The case of the jealous husband	1,51
4	Mother guilty of child abuse	1,39
5	Sex before work	2,59
6	Ex-boxer breaks challenger's jaw	0,83
7	Hoax policeman hijacks motor vehicle	3,83
TOTAL AVERAGE:		1,98

\* Possible scores range between 0 and 4.

Descriptions one and seven elicited the most punitive responses. This was expected as both these cases described clear-cut crimes: in case one fraud committed by policemen and in case seven robbery. Case five, in which a crime of sexual harassment was presented, also drew more punitive than non-punitive responses. The rest of the descriptions obtained scores of below two.

Although responses range widely depending on perceptions regarding the merits of each, it is interesting that the average response to all questions (1,98) falls nearly precisely halfway between the possible range of responses. This shows that the distinction between respondents indicating heavy sentences and those supporting lenient sentences - in terms of the range of crime descriptions - is nearly evenly distributed.

## 6.2.3 Comparing the two scales

The main hypothesis of this study is investigated here. As mentioned in chapter one the specific purpose is to investigate whether significant correlations exist between scores on the two scales, in other words whether people who give punitive responses to Likert scale statements are also punitive with regards to the amount of punishment they think are suitable to specific crime descriptions.

### 6.2.3.1 Presumed correlation between the Likert scale and the Just Deserts scale

The purpose here can be phrased as follows: To determine whether the cumulative responses of individuals to Likert scale questions correlate with those to article-type descriptions. This consequently involves comparing the total range of individual responses to the first scale with that of the second.

According to Pearson's formula, no correlation could be proved to exist between the two variables: sample correlation  $r = -0,006$ ; significance (2-tailed test) = 0,925. Correlations between some of the derivatives of these two scales were also considered:

**TABLE 6.8: CORRELATIONS BETWEEN DERIVATIVES OF LIKERT AND JUST DESERTS SCALES**

COMBINATION OF DERIVATIVES INVESTIGATED:	PEARSON CORRELATION:	SIGNIFICANCE (2-TAILED TEST):
TP – JDT2-6	-0,052	0,398
TP – JDT1-6	-0,009	0,883
TP – JDT1-5	0,021	0,725
TP137 – TP	-0,040	0,515
TP137 – JDT2-6	-0,038	0,535
TP137 – JDT1-6	-0,039	0,523
TP137 – JDT1-5	-0,021	0,728
TP135710 – JDT	-0,049	0,420
TP135710 – JDT2-6	-0,065	0,285
TP135710 – JDT1-6	-0,048	0,434
TP135710 – JDT2-5	-0,029	0,638

In none of these instances could a significant correlation be established.

**6.2.3.2 Comparison between high and low scorers and the average score in terms of the other scale**

Another technique that could be used to try and establish a relationship between these two scales, is by comparing the top scorers in one scale to all of the respondents in terms of the other scale. In other words, to obtain the average score for scale x and determine whether the top scorers of scale y are more punitive in

terms of it than the average respondent.

Firstly, the top 15 per cent of respondents according to the Likert scale (those scoring between 46 and 50) were compared with the Just Deserts scale and some of its derivatives:

**TABLE 6.9: COMPARING THE TOP 15% SCORERS ON THE LIKERT SCALE WITH THE TOTAL SAMPLE IN TERMS OF THE JUST DESERTS SCALE**

SCALE COMPARED WITH:	AVERAGE SCORE OF TOP 15% OF LIKERT SCALE IN TERMS OF THE JUST DESERTS SCALE:	AVERAGE FOR THE TOTAL SAMPLE IN TERMS OF THE JUST DESERTS SCALE:	PERCENTATIVE DIFFERENCE BETWEEN THE TWO SAMPLES:
JDT	13,31	13,83	3,76%
JDT2-6	6,27	7,06	11,19%
JDT1-6	9,47	10,01	5,39%
JDT1-5	8,92	9,19	2,93%
AVERAGE PERCENTATIVE DIFFERENCE:			5,82%

These figures show that HSL actually scored lower than the average for the total sample. Although this difference is not substantial, JDT2-6 showed an eleven per cent difference. This might imply that respondents scoring high on the Likert scale scored a little bit lower on the Just Deserts scale, although the difference may be too small to draw significant inferences.

When comparing the LSL with the average obtained for the Just Deserts scale, the following figures were obtained:

**TABLE 6.10: COMPARING THE BOTTOM 15% SCORERS ON THE LIKERT SCALE WITH THE TOTAL SAMPLE IN TERMS OF THE JUST DESERTS SCALE**

SCALE COMPARED WITH:	AVERAGE SCORE OF BOTTOM 15% OF LIKERT SCALE IN TERMS OF THE JUST DESERTS SCALE:	AVERAGE FOR THE TOTAL SAMPLE IN TERMS OF THE JUST DESERTS SCALE:	PERCENTATIVE DIFFERENCE BETWEEN TWO SAMPLES:
JDT	13,41	13,83	3,04%
JDT	6,93	7,06	1,84%
JDT1-6	9,64	10,01	3,70%
JDT1-5	8,59	9,19	6,53%
AVERAGE PERCENTATIVE DIFFERENCE:			3,78%

As in the previous table, LSL scored somewhat lower than the total sample. The differences are also small, however.

Inversely, it is also possible to take those respondents who scored the highest on the Just Deserts scale and compare them to the total sample in terms of the Likert scale:

**TABLE 6.11: COMPARING THE AVERAGE TOTAL OF THE TOP 15% OF THE JUST DESERTS SCALE WITH THAT OF THE WHOLE SAMPLE IN TERMS OF THE LIKERT SCALE**

SCALE COMPARED WITH:	AVERAGE SCORE OF TOP 15% OF JUST DESERTS SCALE IN TERMS OF THE LIKERT SCALE:	AVERAGE FOR THE TOTAL SAMPLE IN TERMS OF THE LIKERT SCALE:	PERCENTATIVE DIFFERENCE BETWEEN TWO SAMPLES:
TP	39,22	39,30	0,20%
TP137	9,73	9,80	0,71%
TP135710	17,38	17,53	0,86%
AVERAGE PERCENTATIVE DIFFERENCE:			0,59%

Punitive respondents in terms of the Just Deserts scale did not score significantly higher on the Likert scale than the average obtained for all the respondents.

Without needing to draw another table it can be mentioned that the same tendency was observed in the case where the bottom 15 per cent respondents of the Just Deserts scale were compared to the average in terms of the Likert scale.

To summarise, findings obtained under section 6.2.3.2 confirms those under section 6.2.3.1, namely that no correlation can be established between the Likert scale and the Just Deserts scale.

## **6.2.4 Demographic variables in terms of the Likert scale**

This point deals with the relationship between the independent variables gender, age, qualification level, family income, and victim status and the dependent variable TP. Pearson's correlation is used to draw inferences<sup>15</sup>.

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<sup>15</sup> For the  $H_0$  (null-hypothesis) that  $\rho=0$  against any  $H_1$  (alternative hypothesis), we use the pivot  $t=r\sqrt{(n-2)/\sqrt{(1-r^2)}}$ , but since  $n$  is large we may work with the t-table and  $\infty$  (infinite) degrees of freedom, i.e. we may work with the  $z$  (normal) table which is more detailed than the t-table as given in textbooks. For the  $H_0$  that  $\rho=v$ , some nonzero value, against an  $H_1$ , we use the pivot  $z = (1,1513 \log[(1+r)/(1-r)] - 1,1513 \log[(1+v)/(1-v)]) / (1/\sqrt{[n-3]})$  and the normal table.

**TABLE 6.12: CORRELATIONS BETWEEN THE INDEPENDENT VARIABLES GENDER, AGE, QUALIFICATIONS, FAMILY INCOME AND VICTIM STATUS AND THE DEPENDENT VARIABLE TP (AND SOME OF ITS DERIVATIVES)**

INDEPENDENT VARIABLE:	DEPENDENT VARIABLE:	PEARSON CORRELATION:	SIGNIFICANCE (2-TAILED):
Gender	TP	0,021	0,73
Gender	TP137	0,055	0,37
Gender	TP135710	0,023	0,71
Age	TP	0,265	0,00
Qualifications	TP	-0,121	0,05
Qualifications	TP137	-0,130	0,03
Qualifications	TP135710	-0,142	0,02
Family income	TP	-0,110	0,07
Family income	TP137	-0,202	0,00
Victim status	TP	-0,007	0,90

These figures can be explained as follows:

#### 6.2.4.1 Gender

In the case of Gender versus TP, TP137 and TP135710 the p-values are 0,73, 0,37 and 0,71 respectively, and it can be concluded that there is no correlation between gender and the other variables, because the p-values are too far above 0,05. Studies conducted in other countries showed that men are, generally spoken, more punitive than women (see section 3.2.2.2.5). This tendency was consequently not confirmed in this study.

#### 6.2.4.2 Age

In the case of Age versus TP it can be shown that the value  $r=0,26$  is significant (5% level), not just that there is a nonzero correlation between the variables in the sampled population in general, but that it is greater than  $0,169$ , which is a much stronger result. (It means that we can be 95 per cent confident that age is  $(0,169)^2=0,0286$  or almost 3 per cent responsible for TP. This may not sound much, but if it is realised that there are many possible factors of TP then one contributing 3 per cent is not negligible. This shows an increase in punitiveness as people get older, which is in accordance with findings by other studies (see section 3.2.2.2.2).

#### 6.2.4.3 Qualifications

In the case of Qualifications versus TP, TP137 and TP135710 the p-values are  $0,02$ ,  $0,02$  and  $0,01$ , so the values of  $r$  are significant or highly significant that there are negative correlations between Qualifications and TP, TP137, and TP135710, i.e. that, the higher the qualifications of a respondent the less punitive he will be in terms of the Likert scale. This finding is also consistent with findings obtained in other studies (see section 3.2.2.2.4).

#### 6.2.4.4 Family income

In the case of Family Income versus TP the p-value is  $0,036$ , which means that the observed  $r$ -value is significant of some correlation between Family Income and TP in the sample population. In the case of Family Income versus TP137 the  $r$ -value is so big ( $-0,202$ ) that, like in the case of Age and TP, it was worth investigating below what

value the r-value was significant of correlation in the sampled population, and it is found that to be 0,104, which means that TP137 is  $(0,104)^2 \approx 1\%$  ascribable to Family Income, in other words the higher the income the lower punitiveness in terms of TP137. This finding is also in accord with other studies (section 3.2.2.2.2).

#### 6.2.4.5 Victim status

As in the case of similar studies on punitiveness, no correlation could be established between people who have been victims of crime and higher levels of punitiveness, which is the same as in similar studies on this subject (see section 3.2.2.2.6).

### **6.2.5 Demographic variables in terms of the Just Deserts scale**

The correlations between the independent variables mentioned above and the dependent variable JDT and its derivatives will subsequently also be looked at.

**TABLE 6.13: CORRELATIONS BETWEEN THE INDEPENDENT VARIABLES GENDER, AGE, QUALIFICATIONS, FAMILY INCOME AND VICTIM STATUS AND THE DEPENDENT VARIABLE JDT (AND SOME OF ITS DERIVATIVES)**

INDEPENDENT VARIABLE	DEPENDENT VARIABLE	PEARSON CORRELATION	SIGNIFICANCE (2-TAILED)
GENDER	JDT	-0,036	0,56
GENDER	JDT2-6	-0,025	0,68
AGE	JDT	-0,038	0,51
QUALIFICATIONS	JDT	0,165	p<0,01
FAMILY INCOME	JDT	0,131	0,03
VICTIM STATUS	JDT	0,075	0,78

These figures can be explained as follows:

#### 6.2.5.1 Gender

As in the case of Gender versus TP, no significant correlation can be established between Gender and JDT or JDT2-6.

#### 6.2.5.2 Age

No significant correlation can be established between Age and JDT.

#### 6.2.5.3 Qualifications

With a p-value of less than 0,01, the Pearson correlation of 0,165 is found to be highly significant. If this is compared to the finding on Qualifications versus TP, the difference here is that this is a positive correlation whilst the previous one had been negative. In this case it means that people having higher qualifications tend to lay down longer terms of imprisonment than those with lower qualification levels.

#### 6.2.5.4 Family income

With a p-value of 0,03, the relationship between Family income and JDT can be described as significant.

#### 6.2.5.5 Victim status

As in the case of Victim status versus TP, no significant correlation could be established between Victim status and JDT. This means that having been a victim of crime does not influence punitiveness in terms of either the Likert scale or the Just Deserts scale.

## 6.3 Findings with regard to responses to open-ended questions

Reactions to open-ended questions drew interesting responses, which were categorised and analysed. Responses were categorised as follows:

1. As either a punitive or non-punitive response;
2. according to four aspects related to crime, namely: i)the crime; ii)the criminal, iii)the victim; and iv)punishment; and
3. Under each of these categories, into i)subcategories describing classes of responses, and ii)specific answers provided by respondents.

As to the first level of categorisation above, it can be logically concluded that, if one were to provide one reason for sentencing an offender, your response can only take one of two forms: either negative or positive. This is the same process that happens in courts where a tough sentence is normally accompanied by the emphasis on aggravating factors whilst a light sentence would be justified by mitigating factors. Naturally, when considering a suitable sentence, the sentencing official would weigh aggravating and mitigating circumstances and come to a decision relating to what he or she perceives to be a balanced reaction to the crime. For the purposes of this study, however, respondents were asked to provide only one reason why the specific sentence had been given. In cases where respondents provided double-barrel answers, the first reason given was used.

The problem was to create categories that would represent all answers by respondents in a logical structure that would be applicable to all seven crime descriptions and could also be used for comparison

purposes. Furthermore, a balance had to be maintained between as many categories as would reflect different ideas and maintaining mutually exclusiveness with regard to such categories. This was no simple task, and involved working through all 1890 responses five times whilst reclassifying responses every time. The following head- and sub-categories were subsequently devised:

**TABLE 6.14: CATEGORIES USED TO CLASSIFY OPEN-ENDED RESPONSES**

CATEGORIES		SUB-CATEGORIES	
		NO.	DESCRIPTION
PUNITIVE RESPONSES	CRIME	1	Is a crime
		2	Effects if the crime
		3	Wrongness of crime/actions
	CRIMINAL	4	Guilt/intention
		5	Is a criminal/bad characteristics
		6	Should've taken different action
	VICTIM	7	Sympathy with victim
	PUNISHMENT	8	Retribution (deserves punishment)
		9	Deterrence
		10	Protection of the community
		11	Punishment for rehabilitation purposes
NON-PUNITIVE RESPONSES	CRIME	12	Not a crime/minor crime
	CRIMINAL	13	Sympathy with offender/his family
		14	Mitigating factors
		15	Not guilty/not intentionally
		16	Admitted guilt/showed remorse
	VICTIM	17	Victim/somebody else's fault
	PUNISHMENT	18	Other solution (not punishment/imprisonment)

The main purpose of creating these categories is to establish a range to which different subgroups of the sample (n=270) could be compared. In particular, it is used to compare the responses of the highest and lowest scorers on each scale in order to find out whether differences exist in the way in which they react to crime. It was hoped that the differences in emphasis place on distinct aspects of crime would be informative as to the ways in which they think. The responses are

used as follows:

- Under section 6.3.5.1 responses are categorised according to the distribution mentioned above. The purpose is to see how respondents viewed each crime description and to point out peculiarities.
- Under section 6.3.5.2 responses to the seven crime descriptions in total are discussed; and
- under section 6.4 these categories are used to typify the various subgroups mentioned in order to see how these different groups differ in terms of their reactions.

### 6.3.1 Reactions to each of the seven crime descriptions

Reasons provided by respondents for their choices of sentence were as follows (examples of typical answers given by respondents are included in inverted commas):

#### 6.3.1.1 "Policeman convicted of fraud"

**TABLE 6.15: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 1 OF THE JUST DESERTS SCALE: "POLICEMAN CONVICTED OF FRAUD."**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	□ Disobeyed/broke the law ("Dishonest to the law"/"Against the law"	20	26
		□ Committed a crime	6	
2	Effects of the crime (promoting crime)	□ They promote corruption/crime ("Increases the rate of crime"/ "People will commit crime knowing that the police take bribes"/"They are adding crime")	31	34
			120	

		<input type="checkbox"/> "Bring harm to the criminal justice system"/"There would be no court, no prosecution and no persecution"/"Give false image of the police"	3	
3	Wrongness of crime/actions	<input type="checkbox"/> Committed a crime being policemen ("They know the law"/"Men of the law"/They are law enforcers and at the same time they break the law"/"They know the law better than anyone else"/"Policemen shouldn't collaborate with criminals"/"If policemen involve themselves in crime, who is going to protect society?"/"They are bound to the law"/"They know the law but break it"/"They are unfaithful to their jobs")	62	92
		<input type="checkbox"/> Bribery ("Making money the wrong way"/Using their jobs to make money"/"Accepted bribery in the line of duty")	19	
		<input type="checkbox"/> Committed crime, thinking that the law would protect them"/"Took advantage of the fact that they are policemen")	3	
		<input type="checkbox"/> "Corruption"	3	
		<input type="checkbox"/> The community rely on them ("We trust in them")	2	
		<input type="checkbox"/> "Taking the law into their own hands"	2	
		<input type="checkbox"/> "Way in which committed"	1	
TOTAL CRIME:			152	
PUNITIVE RESPONSES: CRIMINAL				
4	Guilt/intention	<input type="checkbox"/> "Did it intentionally"	1	2
		<input type="checkbox"/> "See themselves guilty"	1	
5	Is a criminal/bad characteristics	<input type="checkbox"/> "Dishonest"/"They have no principles"/"They are corrupt"	3	6
		<input type="checkbox"/> Criminals	2	
		<input type="checkbox"/> "Police like money more than their work"	1	
6	Should've taken different action	<input type="checkbox"/> Not doing what they are supposed to do ("Police must not take bribes, must solve the case"/"Policemen should set an example/should be role models"/"Must control crime"/"Must maintain law and order"/"Must arrest people, not use them"/"Should prevent crime, not take part in it"/"Must protect/serve society, not steal"/"Should teach people not to commit crime"/"Supposed to be law-abiding citizens"/"Should've arrested the man")	50	50
TOTAL CRIMINAL:			58	
PUNITIVE RESPONSES: VICTIM				
7	Sympathy with victim	-	0	0
TOTAL VICTIM:			0	
PUNITIVE RESPONSES: PUNISHMENT				

8	Retribution	<input type="checkbox"/> Deserves punishment ("They must know that bribery is not good"/"Must be punished because they know the law"/"Should be punished like everyone else"/"This act is punishable by law"/"Must serve imprisonment"/"To show them that disobedience to the law is a crime"/"They deserve this"/"Must be given long term imprisonment"/"Must also be expelled from duty")	22	22
9	Deterrence	<input type="checkbox"/> Individual deterrence ("If you leave them, they will keep on doing this"/"Not to repeat it"/"5 years – they will refuse bribery in future"/"Should get 20 years so that they don't repeat it"/"Should only get a little punishment to warn them")	10	19
		<input type="checkbox"/> General deterrence ("To deter other police from fraud"/"A smaller sentence will motivate corruption"/"Example to others"/"They must stop using people like animals"/"So that the law can be known and respected"/"The crime rate will not decrease if they are not punished"/"To eliminate corruption in the police force")	9	
10	Protection of the community	-	0	0
11	Rehabilitation	-	0	0
			TOTAL PUNISHMENT:	19
NON-PUNITIVE RESPONSES: CRIME				
12	Not a crime/minor crime	-	0	0
			TOTAL CRIME:	0
NON-PUNITIVE RESPONSES: CRIMINAL				
13	Sympathy with offender/family	Sympathy with family ("Because of their families"/"He is a family man"/"To come back and look after their families")	12	16
		Sympathy with offenders ("Maybe they don't earn enough salary"/"They caused no crime, they need to survive themselves")	4	
14	Mitigating factors	-	0	0
15	Not intentionally/not guilty	-	0	0
16	Admitted guilt/showed remorse	-	0	0
			TOTAL CRIMINAL:	16
NON-PUNITIVE RESPONSES: VICTIM				
17	Victim/other person's fault	"Other person could have said no"	1	1
			TOTAL VICTIM:	1
NON-PUNITIVE RESPONSES: PUNISHMENT				

18	Other solution (not punishment)	Not imprisonment ("Imprisonment is expensive and destroys family life")	2	2
			TOTAL PUNISHMENT:	2

As expected, people reacted quite punitively toward the description posed. It drew the second highest average response in terms of punishment laid down, namely 2,94 out of a possible four. This is also reflected in the number of punitive reactions (255) toward this description compared to negative ones (15). If the frequency with which different answers appeared is analysed, the general feeling amongst respondents as to this description can be sketched as follows:

"These people know the law better than anybody else, and in spite of this they are breaking it. Furthermore, they are supposed to set an example and to be law-abiding citizens and are not supposed to take part in crime. By this act, they are promoting crime, and should consequently be severely punished just like any ordinary criminal."

### 6.3.1.2 "The case of the hungry husband"

The categorised responses to the second crime description are as follows:

**TABLE 6.16: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 2 OF THE JUST DESERTS SCALE: "THE CASE OF THE HUNGRY HUSBAND."**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Assault ("Bitten his wife"/"Wife battering is not allowed"/"Serious assault"/"Assault is a crime"/"Wife battering")	12	14
			123	

		<input type="checkbox"/> Committed a crime ("The law is not interested in whether she prepared food, but that he assaulted his wife")	2	
2	Effects of the crime (promoting crime)	<input type="checkbox"/> Injuries caused ("Has damaged the mouth of his wife")	2	2
3	Wrongness of crime/actions	<input type="checkbox"/> Woman abuse ("Abuses his own wife"/"Females should not be exploited because of their sex"/"Should not have beaten her"/"Women have their rights"/"Treats his wife like an animal")	17	21
		<input type="checkbox"/> One cannot automatically expect women to do housework ("There are no roles defined by society to be performed by women only or men only"/"Because the woman has no work in the house")	2	
		<input type="checkbox"/> Humiliated wife ("Woman should not be punished like a child")	1	
		<input type="checkbox"/> "Takes law into his own hands"	1	
TOTAL CRIME:				37
PUNITIVE RESPONSES: CRIMINAL				
4	Guilt/intention	<input type="checkbox"/> Admitted guilt/"He is guilty"/"Assaulted her on purpose"	3	3
5	Is a criminal/character of criminal	<input type="checkbox"/> He is a criminal	1	1
6	Should've taken different action	<input type="checkbox"/> Should've talked with her/"Should've solved the case with her"/"Should've guided her"/"Should've asked for something to eat"/"Should've resolved the problem, not beat her"/"Should've encouraged and supported her"	16	31
		<input type="checkbox"/> Could've done work himself ("Should've cooked for himself"/"He can also cook")	9	
		<input type="checkbox"/> Should've discussed it with in-laws	3	
		<input type="checkbox"/> Should've given her a warning first	1	
		<input type="checkbox"/> Should've forgiven wife	1	
		<input type="checkbox"/> Should've contacted social workers	1	
TOTAL CRIMINAL:				35
PUNITIVE RESPONSES: VICTIM				
7	Sympathy with victim	<input type="checkbox"/> "The wife has a right not to be beaten"	1	2
		<input type="checkbox"/> "It is the first mistake by the wife"	1	
TOTAL VICTIM:				2
PUNITIVE RESPONSES: PUNISHMENT				
8	Retribution	<input type="checkbox"/> Deserves punishment ("Every offender should pay for his responsibilities"/"This punishment will inform him that a wife is not an object")	2	2
9	Deterrence	<input type="checkbox"/> Individual deterrence ("To deter him from doing it again"/"He will always beat wife if he is not imprisoned"/"To warn him not to hit wife again"/"To teach him a lesson"/"Should not repeat it")	8	9

		<input type="checkbox"/> General deterrence ("To show that the law is in the hands of the government")	1	
10	Protection of the community	-	0	0
11	Rehabilitation	-	0	0
TOTAL PUNISHMENT:				11
NON-PUNITIVE RESPONSES: CRIME				
12	Not a crime/minor crime	<input type="checkbox"/> Family matter ("Was just teaching his wife a lesson/disciplining her"/"She is his property"/"Must be handled as a family matter"/"The police has not right to interfere in a family matter"/"Was just trying to keep order in the house"/"He married the wife to clean and cook"/"According to tradition, a wife should cook for the husband since he has to work for his wife"/"Has a right to beat her if she doesn't listen to what he says"/"He is teaching her to be a good wife: cooking, cleaning, etc."/"He has the power to punish his wife")	45	45
TOTAL CRIME:				45
NON-PUNITIVE RESPONSES: CRIMINAL				
13	Sympathy with offender/family	<input type="checkbox"/> Sympathy with family ("Husband is breadwinner")	4	6
		<input type="checkbox"/> "He won't do it again"	1	
		<input type="checkbox"/> "He is trying by all means to make a living"	1	
14	Mitigating factors	<input type="checkbox"/> First time offender ("It was the first time he beat his wife")	18	22
		<input type="checkbox"/> Anger ("He was very angry"/"He was hungry, that is why he beat his wife"/"He was confused with what the wife did")	4	
15	Not intentionally/not guilty	<input type="checkbox"/> Not guilty ("Because it is his own wife"/"Because the wife didn't do her work"/"Not guilty – the wife should respect him"/"He has the right to beat her up because it is for long she hasn't been listening")	5	7
		<input type="checkbox"/> No intention ("He didn't mean to beat his wife, he was forced by circumstances"/"He wanted food to eat so he can work"/"His aim was not to hurt her but to discipline her")	2	
16	Admitted guilt/showed remorse	<input type="checkbox"/> Admitted guilt ("He found himself guilty"/"Confessed guilt"/"He admitted guilt which means that it was not his intention")	3	3
TOTAL CRIMINAL:				38
NON-PUNITIVE RESPONSES: VICTIM				

17	Victim/other person's fault	<input type="checkbox"/> Wife's fault ("Wife is guilty"/"Wife is wrong"/"She broke the marriage contract"/"Women must respect their husbands"/"Women must clean the house/cook"/"He provides the food, his wife must cook it"/"The woman must work at home if she is not working"/"His wife is useless"/"Wife is no good, she spends the whole day gossiping"/"Wife is arrogant"/"Woman is lazy and expects the man to look after her")	62	65
		<input type="checkbox"/> Neighbour's fault ("Should arrest the neighbour")	3	
TOTAL VICTIM:				65
NON-PUNITIVE RESPONSES: PUNISHMENT				
18	Other solution (not punishment)	<input type="checkbox"/> Discussion ("Should sit down with his wife and solve the problem"/"Should solve the matter within the family"/"Should be resolved at home"/"The two need to sit down and apologise to each other"/"Settlement out of court"/"They should forgive one another")	27	37
		<input type="checkbox"/> Warning ("Must be advised not to hit his wife again"/"Must only be warned")	8	
		<input type="checkbox"/> Must not be punished/put in prison	1	
		<input type="checkbox"/> Periodical imprisonment ("He must be punished at weekends to secure his job")	1	
TOTAL PUNISHMENT:				37

Opinions regarding this crime can be classified into two broad categories. The first group of opinions can be sketched as follows:

"The wife is at fault because she has to do the household as she is not working and she deserved what happened to her. This, however, is a family matter, and the husband had a right to beat her because she did not fulfil her duties as housewife. Also, the matter should be resolved within the family, since it is not a matter for the police to deal with."

Another smaller group argued as follows: "The husband had not right to beat up his wife and this beating of his wife constitutes a crime. It would have been better if he'd discussed the matter with her."

### 6.3.1.3 "The case of the jealous husband"

The categorised responses of respondents to this description are as follows:

**TABLE 6.17: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 3 OF THE JUST DESERTS SCALE: "THE CASE OF THE JEALOUS HUSBAND."**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Committed murder ("Murder is a serious crime"/"Murder is a criminal offence"/"Even though they wronged him, he has no right to kill the man"/"God said that one should not commit murder"/"No excuse, he has murdered someone")	48	53
		<input type="checkbox"/> Against the law ("According to the law he committed murder"/"Murder is against the law")	3	
		<input type="checkbox"/> Committed a crime by murdering	2	
2	Effects of the crime (promoting crime)	-	0	0
3	Wrongness of crime/actions	<input type="checkbox"/> Took the law into his own hands	9	16
		<input type="checkbox"/> Murder is wrong ("Murder does not solve problems"/"Wasn't supposed to kill that man"/"He should not have killed the man because the Bible says one shall not kill")	6	
		<input type="checkbox"/> One must be ruled by one's emotions	1	
TOTAL CRIME:				69
PUNITIVE RESPONSES: CRIMINAL				
4	Guilt/intention	<input type="checkbox"/> Intention ("Killed the man intentionally"/"Was prepared to kill the other man"/"He knows very well that murder is a crime")	13	14
		<input type="checkbox"/> Admitted guilt	1	
5	Is a criminal/character of criminal	-	0	0
6	Should've taken different action	<input type="checkbox"/> Should've contacted authorities ("reported the matter of adultery to the police")	15	33
		<input type="checkbox"/> "Should've killed his wife as well/killed them both"	10	
		<input type="checkbox"/> Should've told wife he was coming home	3	
		<input type="checkbox"/> Should've talked it out ("Should try to talk to each other")	2	
		<input type="checkbox"/> "Should've killed wife, not other man"	1	
		<input type="checkbox"/> Should not take law into his own hands	1	
		<input type="checkbox"/> Should rather have injured him to warn him	1	

TOTAL CRIMINAL:				<b>47</b>
<b>PUNITIVE RESPONSES: VICTIM</b>				
7	Sympathy with victim	-	0	<b>0</b>
TOTAL VICTIM:				<b>0</b>
<b>PUNITIVE RESPONSES: PUNISHMENT</b>				
8	Retribution	<input type="checkbox"/> Must be punished ("Deserves at least one year in jail"/"Must be put in prison")	4	<b>5</b>
		<input type="checkbox"/> To let him know that murder is a crime	1	
9	Deterrence	<input type="checkbox"/> Not to repeat it	1	<b>1</b>
10	Protection of the community	<input type="checkbox"/> Because murderers are not needed in the society	1	<b>1</b>
11	Rehabilitation	<input type="checkbox"/> For rehabilitation	1	<b>1</b>
TOTAL PUNISHMENT:				<b>8</b>
<b>NON-PUNITIVE RESPONSES: CRIME</b>				
12	Not a crime/minor crime	-	0	<b>0</b>
TOTAL CRIME:				<b>0</b>
<b>NON-PUNITIVE RESPONSES: CRIMINAL</b>				
13	Sympathy with offender/family	<input type="checkbox"/> As a family man, his prison sentence should not be too long/"Children will starve if he is jailed for a long time"	2	<b>2</b>
14	Mitigating factors	<input type="checkbox"/> Acted on the spur of the moment ("Was angry at that moment"/"Was led by circumstances"/"Was an insult")	14	<b>14</b>
15	Not intentionally/not guilty	<input type="checkbox"/> He found them in his bed/house ("Caught him during the act")	13	<b>52</b>
		<input type="checkbox"/> Was fighting for his property/wife ("Was protecting his family")	3	
		<input type="checkbox"/> Not guilty ("Has a right to do so"/"Self-defence"/"Has a right to do what he wants in his house"/"Not guilty – could've killed the wife"/"It is his own wife"/"Not guilty – the wife and the man are guilty"/"He is against adultery"/"Both the wife and the house belong to him"/"He has the right to kill that man")	25	
		<input type="checkbox"/> Not intentionally ("Was not murder in intention"/"Accidental criminal"/"Did not intend to kill the neighbour")	11	
16	Admitted guilt/showed remorse	-	0	<b>0</b>
TOTAL CRIMINAL:				<b>68</b>
<b>NON-PUNITIVE RESPONSES: VICTIM</b>				

17	Victim/other person's fault	<input type="checkbox"/> Other man's fault ("Criminal caught with property"/"Neighbour knows that the wife has a husband"/"Neighbour deserves it"/"The deceased had no respect for other's property"/"He is a snake destroying the family"/"Neighbour did wrong to him"/"Neighbour is breaking the home"/"He murdered a dog in his house"/"The neighbour broke the law by going into his house"/"Other man is a trespasser"/"It is a sin to sleep with a woman in her husband's house"/"The reason is that a deceased person has no right to sleep on the bed of another man")	55	74
		<input type="checkbox"/> Wife's fault ("She doesn't respect her husband"/"She should've told other man she had a husband"/"Wife must be arrested"/"Wife is unfaithful"/"The woman made him guilty"/"The wife was supposed to sleep with the other man in his house"/"Wife allowed the man to sleep with her")	19	
TOTAL VICTIM:				74
NON-PUNITIVE RESPONSES: PUNISHMENT				
18	Other solution (not punishment)	<input type="checkbox"/> Not imprisonment ("Must not be punished")	2	4
		<input type="checkbox"/> Not heavy punishment because he is right	2	
TOTAL PUNISHMENT:				4

Concerning this crime, the difference between more punitive and less punitive reactions seems to be as follows:

On the one hand one the more punitive group seemed to argue that: "He committed murder, it was his intention to do so, and he should rather have contacted the police."

The majority, however, argued: "That the victim was at fault because he disrespected the offender by sleeping with his wife in his bed. That the offender is consequently not to blame for what has happened and that he had a right to kill the other man. Furthermore, that the wife is also to blame." A small group of respondents even thought it fit that the wife should also have been killed.

6.3.1.4 "Mother guilty of child assault"

**TABLE 6.18: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 4 OF THE JUST DESERTS SCALE: "MOTHER GUILTY OF CHILD ASSAULT."**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Child abuse/assault ("She was abusing them")	48	58
		<input type="checkbox"/> Against the law ("Child abuse is not allowed")	8	
		<input type="checkbox"/> Committed a crime ("Child abuse is a crime")	2	
2	Effects of the crime (promoting crime)	<input type="checkbox"/> Bodily harm	2	3
		<input type="checkbox"/> "She is killing the nation"	1	
3	Wrongness of crime/actions	<input type="checkbox"/> Child abuse is wrong ("Is too bad"/"She has a responsibility as a parent"/"Treating her children badly"/"Shouldn't transfer frustrations on kids"/"Shouldn't abuse children, even if she has financial problems"/"Not taking care of children"/"Because problem is not on the child but on the husband"/"She didn't give them mother's love"/"She should take care of children, even if father has left"/"She abuses her own blood"/"Abusing innocent children"/"She abuses her children and give the excuse that her husband left her")	37	37
TOTAL CRIME:				98
PUNITIVE RESPONSES: CRIMINAL				
4	Guilt/intention	<input type="checkbox"/> Intention ("She intended to kill them"/"She did it intentionally")	2	3
		<input type="checkbox"/> "Guilty"	1	
5	Is a criminal/character of criminal	<input type="checkbox"/> Bad character ("Useless mother"/"She has no use"/"Irresponsible"/"She has lost her emotions"/"She is a senseless human being"/"It doesn't seem as if she likes the children at all")	10	10
6	Should've taken different action	<input type="checkbox"/> Should've found other ways of making money ("Should've devised other ways of making money"/"Should've looked for a job"/"She is not physically disabled – could do some gardening or sell fruit on the street")	13	32
		<input type="checkbox"/> Should've taken them to child welfare	1	
		<input type="checkbox"/> Should've asked for help ("Should've gone to social worker"/"Should've consulted social workers")	15	
		<input type="checkbox"/> Should've tried to find the father	1	
		<input type="checkbox"/> Should've reported the father for child maintenance	2	
TOTAL CRIMINAL:				45

PUNITIVE RESPONSES: VICTIM				
7	Sympathy with victim	<input type="checkbox"/> Sympathy with children ("The child knows nothing"/"Children must be respected"/"Treating children like animals"/"The children didn't tell the father not to come and live with them"/"She put the children under a fearful life"/"She could also have harmed the children mentally"/"Children should be taken care of by child welfare"/"They must look for father to look after children, the mother is not wrong")	14	14
TOTAL VICTIM:				14
PUNITIVE RESPONSES: PUNISHMENT				
8	Retribution	<input type="checkbox"/> To let her know that children should not be abused	1	9
		<input type="checkbox"/> Deserves punishment ("Must be sentenced because she committed an offence"/"She must be disciplined"/"Child abusers must be heavily punished"/"To show her what she did is wrong"/"She is an animal – must spend 20 years in prison"/"Long imprisonment – children must go to child welfare in the time that she is away")	8	
9	Deterrence	<input type="checkbox"/> Individual deterrence ("She must be warned"/"Maybe she will repent"/"She might come back with a new mind"/"So that she can start to think that she should take care of her children"/"To teach her a lesson that what she did was wrong"/"She must be disciplined"/"Give her time to change her mind"/"Should be taught a lesson that children are an asset to this world"/"Will teach her that child abuse is a serious crime")	25	26
		<input type="checkbox"/> General deterrence ("Other people who abuse children should learn from it")	1	
10	Protection of the community	<input type="checkbox"/> The woman is anti-human, she doesn't deserve to live with other people/"She may injure her husband if he comes back"/"She has to be isolated from her children because she doesn't like them"/"She may end up killing them because she no longer wants them"/"Children must be removed from her because she doesn't love them"	5	5
11	Rehabilitation	<input type="checkbox"/> Sent to prison for rehabilitation ("The purpose is to rehabilitate her"/"She needs to be rehabilitated"/"This will allow time for her to be rehabilitated")	8	8
TOTAL PUNISHMENT:				48
NON-PUNITIVE RESPONSES: CRIME				
12	Not a crime/minor crime	-	0	0

			TOTAL CRIME	<b>0</b>	
<b>NON-PUNITIVE RESPONSES: CRIMINAL</b>					
13	Sympathy offender/family	with	<input type="checkbox"/> Sympathy with children ("She is a parent"/"Must come back to look after children"/"The children will have nobody to look after them"/"She is the one to take care of the children since the father is not there"/"The children will be left alone without parents and they will turn into street children"	20	<b>28</b>
			<input type="checkbox"/> Sympathy with offender ("She was suffering"/"She was confused"/"Not good for women to go to prison"/"She needs help"/"So that she can continue to rear her children in a good way"/"She tried to take care of them"/"She was frustrated by losing husband"	8	
14	Mitigating factors		<input type="checkbox"/> Financial reasons ("She had financial problems"/"Because she is not working"/"She is not working, where will she get money?"/"She doesn't have the means to look after them"	11	<b>16</b>
			<input type="checkbox"/> Circumstances forced her to abuse her children	5	
			<input type="checkbox"/> The stigma forced her to abuse her children	1	
15	Not intentionally/not guilty		<input type="checkbox"/> Not guilty	1	<b>2</b>
			<input type="checkbox"/> Not intentionally	1	
16	Admitted guilt/showed remorse		<input type="checkbox"/> Showed remorse "She felt sorry for what she did"	3	<b>3</b>
TOTAL CRIMINAL:				<b>49</b>	
<b>NON-PUNITIVE RESPONSES: VICTIM</b>					
17	Victim/other person's fault		<input type="checkbox"/> Husband's fault ("The fault is with her husband"/"The man should be punished"/"The man is guilty for running away from her"	4	<b>4</b>
TOTAL VICTIM:				<b>4</b>	
<b>NON-PUNITIVE RESPONSES: PUNISHMENT</b>					
18	Other solution (not punishment)	(not	<input type="checkbox"/> Should get counselling/advice ("A psychologist and social worker must help her"/"Must be counselled and helped"/"Should be sent to child welfare to teach her")	11	<b>12</b>
			<input type="checkbox"/> Warning	1	
TOTAL PUNISHMENT:				<b>12</b>	

In the case of the mother who abused her children, two strongly opposing views were evident:

Firstly, a more punitive group was of the opinion that: "This is a case of child abuse, and child abuse is morally wrong because the

children are innocent and not to blame for her difficulties. She should rather have found other ways of solving her problems, and she deserves long-term imprisonment to teach her a lesson.”

Secondly, a more compassionate group’s feelings can be summed up as: “She was suffering because of her circumstances, had no money, and needs counselling and advice on child rearing rather than punishment. Furthermore, because she is a parent, it would be better for the children if she would receive no punishment as otherwise they would have nobody to look after them.”

### 6.3.1.5 “Sex before work”

**TABLE 6.19: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 5 OF THE JUST DESERTS SCALE: “SEX BEFORE WORK.”**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Broke the law/Against the law	9	60
		<input type="checkbox"/> Committed a crime (“Sexual harassment is a crime”)	6	
		<input type="checkbox"/> Sexual harassment (“Sexual harassment at the workplace”)	41	
		<input type="checkbox"/> Committed a crime (Rape/attempted rape/“It is attempted murder”)	4	
2	Effects of the crime (promoting crime)	<input type="checkbox"/> Promote unemployment/poverty (“Abuse the poor”/“Sexual harassment causes unemployment”/“He must help poor people”/“People are suffering looking for jobs so he must not do such things”)	5	15
		<input type="checkbox"/> Image of the factory will go down (“He kills the pride of the company”/“He brings harm to the factory”/“Damaging the name of the company”)	9	
		<input type="checkbox"/> People will become afraid looking for jobs because of his behaviour	1	
3	Wrongness of crime/actions	<input type="checkbox"/> “Oppression of women”/“Denying the rights of women”	3	107
		<input type="checkbox"/> Abuse of women (“Females have a right to live like anyone else”/“Because he is not my life”/“Sexual abuse”/“What he has done is like rape”)	8	

		<input type="checkbox"/> Humiliation ("One should not humiliate others"/"The man inhumanised her"/"He degrade the woman")	4	
		<input type="checkbox"/> Misuse of position ("Used his position to get sex"/"He sells the work"/"Not doing his job properly"/"Lowering his dignity"/"Takes advantage"/"As a leader he must not take advantage"/"Not loyal to his work"/"He is not the owner of the business")	28	
		<input type="checkbox"/> Wrong ("Is corruption"/"Is out of order"/"People should be employed because of their skills and qualifications"/"Doesn't follow correct procedure"/"You can't give a person a job through sex"/"The woman needs the job, not the sex"/"He is just supposed to offer the job"/"If he don't want to give her a job he was not supposed to ask something from her"/"What he did is unfair"/"Workplace not a place for sex"/"Should not ask for sexual favours")	60	
		<input type="checkbox"/> "Can infect woman with disease"	1	
		<input type="checkbox"/> Violating woman rights	1	
		<input type="checkbox"/> Not respecting his own wife/family/Should stick to his own partner	2	
		<input type="checkbox"/> Must respect other's wife	1	
			TOTAL CRIME:	182
<b>PUNITIVE RESPONSES: CRIMINAL</b>				
4	Guilt/intention	<input type="checkbox"/> Did it intentionally ("Did it intentionally, because he has a wife at home with whom he can have sex"/"His aim is to harass women")	3	9
		<input type="checkbox"/> Is guilty ("He confessed that he is guilty"/"He is the one who sees himself guilty")	6	
5	Is a criminal/bad characteristics	<input type="checkbox"/> Selfish/unfair/"Bad manager"/"He's got bad manners"/"Dishonest, selling the job"/"He is used to it")	7	7
6	Should've taken different action	<input type="checkbox"/> Should've given her a job	1	1
			TOTAL CRIMINAL:	17
<b>PUNITIVE RESPONSES: VICTIM</b>				
7	Sympathy with victim	-	0	0
			TOTAL VICTIM:	0
<b>PUNITIVE RESPONSES: PUNISHMENT</b>				
8	Retribution	<input type="checkbox"/> Deserves punishment ("Has to be punished"/"Must be fire from his job"/"Must get punishment for that"/"4 years will help him to feel the pain of not working as the woman did")	12	12

9	Deterrence	<input type="checkbox"/> Individual deterrence ("To stop him from committing more crime"/"To teach him not to use sex for giving jobs"/"He will take advantage of every woman and ask them for sexual favours"/"To teach him to respect other people"/"He will get used to that")	15	21
		<input type="checkbox"/> General deterrence ("To eliminate sexual harassment at the work place"/"To make sure that people are treated fairly in the work place"/"To avoid victimisation of women at work places")	6	
10	Protection of the community	<input type="checkbox"/> "Such people are not needed in the new South Africa"	1	1
11	Rehabilitation	-	0	0
			TOTAL PUNISHMENT:	34
NON-PUNITIVE RESPONSES: CRIME				
12	Not a crime/minor crime	<input type="checkbox"/> Not a crime ("He did not rape her, it was an agreement"/"Did not rape the woman"/"They agreed to each other"/"The woman could've refused to sleep with him"/"He didn't force her to have sex with him"/"He was proposing, didn't do anything")	23	24
		<input type="checkbox"/> Minor crime ("Didn't rape the woman")	1	
			TOTAL CRIME	24
NON-PUNITIVE RESPONSES: CRIMINAL				
13	Sympathy with offender/family	<input type="checkbox"/> Sympathy with family ("For the sake of the children"/"As a family man, a harsh sentence will affect his family too much")	2	2
14	Mitigating factors	-	0	0
15	Not intentionally/not guilty	<input type="checkbox"/> Not guilty ("He didn't force her to have sex with him"/"The woman had a choice"/"Not guilty, had an agreement")	3	3
16	Admitted guilt/showed remorse	<input type="checkbox"/> "He found himself guilty for what he did"	1	1
			TOTAL CRIMINAL:	6
NON-PUNITIVE RESPONSES: VICTIM				
17	Victim/other person's fault	<input type="checkbox"/> She should've refused ("Because the woman could have denied, she does not respect herself")	2	3
		<input type="checkbox"/> "The woman may have invited this by her clothing"	1	
			TOTAL VICTIM:	3
NON-PUNITIVE RESPONSES: PUNISHMENT				
18	Other solution (not punishment)	<input type="checkbox"/> Warning ("Must get a warning not to do it again")	2	4
		<input type="checkbox"/> Must pay a fine	1	
			135	

	<input type="checkbox"/> The court should suspend him for a month from work	1	
TOTAL PUNISHMENT:			<b>4</b>

Following this description, a majority of respondents were of the opinion that this constitutes sexual harassment at the workplace, and that this is wrong because it oppresses and humiliates women. In addition, most respondents felt that the foreman misused his position, and that his job was to consider qualifications and experience and not to make sexual advances toward people looking for employment. He therefore deserves severe punishment to deter him from continuing this practice."

On the other hand, some respondents felt that this could not really be described as a crime because he did not force her to have sex with him and she also had a choice in the matter.

**6.3.1.6 "Ex-boxer breaks challenger's jaw"**

**TABLE 6.20: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 6 OF THE JUST DESERTS SCALE: "EX-BOXER BREAKS CHALLENGER'S JAW."**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Assault/Intention to inflict bodily harm	12	<b>18</b>
		<input type="checkbox"/> Against the law ("The law doesn't allow one to hurt someone else")	5	
		<input type="checkbox"/> Committed a crime	1	
2	Effects of the crime (promoting crime)	<input type="checkbox"/> Injuries caused ("Caused bodily harm"/"Broke the victim's jaw")	12	<b>12</b>
3	Wrongness of crime/actions	<input type="checkbox"/> Should not be ruled by one's emotions/"Must learn to control his emotions"	2	<b>25</b>

		<input type="checkbox"/> Wrong for boxers to fight other people ("He was a boxer previously, must not fight other people"/"Should fight in the ring"/"He knows he's a boxer"/"He told himself he is champion of the world"/"The boxing principles says that you must not use your powers to beat people")	15	
		<input type="checkbox"/> Must be punished for his ignorance	1	
		<input type="checkbox"/> Takes the law into his own hands	2	
		<input type="checkbox"/> One should not beat others	5	
TOTAL CRIME:				<b>55</b>
<b>PUNITIVE RESPONSES: CRIMINAL</b>				
4	Guilt/intention	<input type="checkbox"/> Intention to fight ("He knew the other man was not familiar with boxing")	2	<b>2</b>
5	Is a criminal/character of criminal	-	0	<b>0</b>
6	Should've taken different action	<input type="checkbox"/> Should learn to control emotions/not fight	2	<b>16</b>
		<input type="checkbox"/> Should've reported the matter (to the police)	2	
		<input type="checkbox"/> Should've thought on his [the victim's] behalf	1	
		<input type="checkbox"/> Should've informed the other man that he was a boxer/should've left the other person alone	8	
		<input type="checkbox"/> Should've talked it out	1	
		<input type="checkbox"/> Should've beaten him well	2	
TOTAL CRIMINAL:				<b>18</b>
<b>PUNITIVE RESPONSES: VICTIM</b>				
7	Sympathy with victim	<input type="checkbox"/> Challenger was not aware that man was a boxer	1	<b>1</b>
TOTAL VICTIM:				<b>1</b>
<b>PUNITIVE RESPONSES: PUNISHMENT</b>				
8	Deserves punishment	-	0	<b>0</b>
9	Deterrence	<input type="checkbox"/> "Must learn to control his emotions"	1	<b>1</b>
10	Protection of the community	-	0	<b>0</b>
11	Rehabilitation	-	0	<b>0</b>
TOTAL PUNISHMENT:				<b>1</b>
<b>NON-PUNITIVE RESPONSES: CRIME</b>				
12	Not a crime/minor crime	<input type="checkbox"/> Minor crime	1	<b>1</b>
TOTAL CRIME				<b>1</b>
<b>NON-PUNITIVE RESPONSES: CRIMINAL</b>				
13	Sympathy with offender/family	<input type="checkbox"/> Feels sorry for boxer	1	<b>1</b>
14	Mitigating factors	<input type="checkbox"/> Provocation ("Was moulded to act"/"He was provoked")	31	<b>120</b>

		<input type="checkbox"/> Self-defence ("Was defending himself"/"Self-defence"/"Was protecting himself")	81	
		<input type="checkbox"/> Was being challenged/Didn't start the fight	6	
		<input type="checkbox"/> They were drunk	1	
		<input type="checkbox"/> He was insulted	1	
15	Not intentional/not guilty	<input type="checkbox"/> Not intentionally ("Didn't intend to beat the man, was protecting himself"/"He thought the other man knew he was a boxer"/"Was not his aim, he was challenged"/"He was not prepared for a fight"/"He injured him unintentionally"/"The intention was not to hurt the other person")	10	26
		<input type="checkbox"/> Not guilty ("Not guilty because the challenger started the fight"/"Was a challenge"/"Not guilty because he has got a right to defend himself")	16	
16	Admitted guilt/showed remorse	<input type="checkbox"/> "Because he found himself guilty and didn't deny it"	1	1
TOTAL CRIMINAL:				148
NON-PUNITIVE RESPONSES: VICTIM				
17	Victim/other person's fault	<input type="checkbox"/> Victim started the fight	7	44
		<input type="checkbox"/> Victim provoked/challenged him	27	
		<input type="checkbox"/> Challenger is guilty/Challenger's fault ("Challenger may have done this intentionally"/"The man was against him"/"Challenger should learn that you can't judge a person by just looking at him")	10	
TOTAL VICTIM:				44
NON-PUNITIVE RESPONSES: PUNISHMENT				
18	Other solution (not punishment)	<input type="checkbox"/> They should settle the matter on their own	1	2
		<input type="checkbox"/> He should only get a warning	1	
TOTAL PUNISHMENT:				2

Although some respondents felt that it is wrong for people who have boxing experience to get involved in fights with ordinary people and that he should at least have informed the other man of this fact, most were of the opinion that he was provoked to act and that he can no be held accountable because this is a case of self-defence.

6.3.1.7 “Hoax policeman hijacks motor vehicle”

**TABLE 6.21: CATEGORISED RESPONSES OF TOTAL SAMPLE TO DESCRIPTION 7 OF THE JUST DESERTS SCALE: “HOAX POLICEMAN HIJACKS MOTOR VEHICLE.”**

PUNITIVE RESPONSES: CRIME				
1	Is a crime/broke the law	<input type="checkbox"/> Broke the law (“Did not obey the rules”/“Misuse of law”/“They knew exactly what they did was against the law”)0	6	72
		<input type="checkbox"/> Is a crime (“Car-hijacking is not allowed”/“He was stealing”/“They committed a crime”/“Committed a serious crime”)	21	
		<input type="checkbox"/> “Unlicensed fire-arm/car-hijacking/armed robbery/theft/abduction/attempted murder/False identity/fraud”	45	
2	Effects of the crime (promoting crime)	<input type="checkbox"/> Damage image of police (“Give people wrong image of police”/“These people create a situation where one doesn’t trust the police anymore”/“People will think the police are corrupt”/“Causing damage to the government”/“People will lose hope in the police”)	21	27
		<input type="checkbox"/> Promote crime (“Increase the rate of crime”)	5	
		<input type="checkbox"/> Damaging our economy	1	
3	Wrongness of actions	<input type="checkbox"/> What they did was wrong (“Should not take advantage of others”/“They made a mistake”)	2	55
		<input type="checkbox"/> Personified a policeman (“Gave himself a job which doesn’t fit him”/“Use the police uniform”/“It is not their job to stop cars”/“Used the name of the police to commit a crime”/“Pretended to be a policeman”/“He is a fake”/“They should not have done what they did”/“He faked so that he can be rich”)	52	
		<input type="checkbox"/> Could’ve killed driver with the gun	1	
			<b>TOTAL CRIME:</b>	<b>154</b>
PUNITIVE RESPONSES: CRIMINAL				
4	Guilt/intention	<input type="checkbox"/> Intentionally (“Was done on purpose”/“Was planned in advance”/“Intended to kill if necessary”/“He is guilty	5	5

5	Is a criminal/character of criminal	<input type="checkbox"/> He is a criminal ("Thief"/"Dangerous – he can kill you if you ask for help"/"Got criminal skills"/"Has learnt criminal skills"/"He is a murderer"/"He is a criminal because he had to commit other crimes to get the uniform and the gun"/"He is a danger to society"/"They are real criminals"/"He is a robber"/"It is clear he is used to this type of thing"/"They are car-hijackers"/"Even though he is young he is a killer"	39	39
6	Should've taken different action	<input type="checkbox"/> Should go and work for himself	3	3
			TOTAL CRIMINAL:	47
PUNITIVE RESPONSES: VICTIM				
7	Sympathy with victim	<input type="checkbox"/> He was spiritually harmed because he had to take off his clothes/Psychological harm/"Is like they've murdered him"	5	5
			TOTAL VICTIM:	5
PUNITIVE RESPONSES: PUNISHMENT				
8	Retribution	<input type="checkbox"/> Deserves punishment ("Has stolen, must get punishment"/"Must be kept in police cells"/"Must be 30 years"/"These years are too small, because the young promote crime in our country"/"Must serve 20 years"/"Must be punished for his evil behaviour"/ "They must be aware that the government has the law in its hands"/"Must serve more than 20 years for portraying a police uniform"/"He is a dangerous criminal who needs a harsh form of punishment"/"The young man is an animal who needs to spend long time in prison"/"Must be sentenced with effective means of sentencing"/"Must get more than 10 years"/"Should serve more than 4 years")	19	19
9	Deterrence	<input type="checkbox"/> Individual deterrence ("Must never hijack trucks again"/"To deter him from committing another crime"/"May cause him to repent"/"Must learn to respect adults"/"To teach him a lesson"/"Must learn to live with other people"/"If he is not punished he will keep on doing it"/"It will make him a law-abiding citizen")	22	25
		<input type="checkbox"/> General deterrence ("Criminals and hijackers must be given a strong warning not to follow his tricks"/"To stop car-hijacking")	3	
10	Protection of the community	<input type="checkbox"/> Danger to society, will continue if not imprisoned ("We should operate against gangsterism and robbery"/"They will kill other people if they are not imprisoned"/"Car-hijackers must be kept in jail"/"He is a danger to society")	9	9
11	Rehabilitation	<input type="checkbox"/> Rehabilitation ("Four years for rehabilitation")	2	2

			TOTAL PUNISHMENT:	<b>55</b>
NON-PUNITIVE RESPONSES: CRIME				
12	Not a crime/minor crime	<input type="checkbox"/> Not a serious crime, 3 years enough	1	<b>1</b>
			TOTAL CRIME	<b>1</b>
NON-PUNITIVE RESPONSES: CRIMINAL				
13	Sympathy with offender/family	-	0	<b>0</b>
14	Mitigating factors	Age ("still young - not accountable"/"He is still under-age"/"He is still young, was trying to make a living"	7	<b>7</b>
15	Not intentionally	-	0	<b>0</b>
16	Admitted guilt/showed remorse	-	0	<b>0</b>
			TOTAL CRIMINAL:	<b>7</b>
NON-PUNITIVE RESPONSES: VICTIM				
17	Victim/other person's fault	-	0	<b>0</b>
			TOTAL VICTIM:	<b>0</b>
NON-PUNITIVE RESPONSES: PUNISHMENT				
18	Other solution (not punishment)	"Too young to be kept in prison"	1	<b>1</b>
			TOTAL PUNISHMENT:	<b>1</b>

Of all seven crime descriptions, people reacted the most punitively toward this one. Even though a few respondents (seven) thought that the age of the offender should serve as mitigating factor, the majority sees him as a danger to society, who committed a serious offence. The fact that he impersonated a policeman was the most serious factor, and he deserves severe punishment.

### **6.3.2 Noticeable features of responses to open-ended questions for all seven crime descriptions**

When analysing the responses to the seven crime descriptions as a whole, one can get a better idea of how respondents think in terms

of what is right and wrong, the role of the police and the courts, and other issues surrounding crime and punishment. The following conclusions can be drawn from the data:

- Concerning the punitiveness-levels of respondents, high punitiveness is evident from the number of punitive responses versus non-punitive responses. Although descriptions two to six in particular (one and seven involved relatively straight forward cases of serious crimes) were designed to draw contradicting responses, respondents still reacted punitively more often than non-punitively: 722 (54%) to 628 (46%).
  
- If one analyses the data with respect to the four basic punishment motives, namely retribution, deterrence, protection of the community, and rehabilitation, it is clear that respondents reacted in a way supporting the retribution motive (that is to punish someone because he deserves it) most of the time. Most of the punitive categories (except for nine, ten and eleven) implicate deserved punishment as a result of, for example, the fact that it is a crime; that the crime has negative effect; that it is wrong; etc. If one analyses it in this way, it is interesting that retribution as a motive for punishing people appears 1105 times out of 1234 for the punitive responses, that is 90 per cent.
  
- A third deduction that can be drawn from the data is the inherent respect for the law that most of the respondents seem to have. Examples are:
  - The 52 respondents in case seven (Hoax policeman hijacks motor vehicle) who reacted to the fact that the offender personified a

policeman and the 21 who were concerned about the fact that this type of crime damages the image of the police (21);

- the large number of respondents in case 1 (Policeman convicted of fraud) who were concerned about the fact that the offenders who committed the crime were policemen (62), and those who were of the opinion that members of the police force should not act in this way (50); and

- the number of respondents in every case who were concerned about the fact that the respective crimes promote crime, bring harm to the justice system and give people the idea that the police and courts are corrupt.

□ A fourth interesting result is the question of what constitutes crime in the minds of respondents. It seems that some of the respondents have a wider perception of crime than what is officially the case. In the case of the "jealous husband," for example, 15 respondents were of the opinion that the matter of adultery should have been reported to the police. In the case of the ex-boxer (case six), two respondents also mentioned that the boxer should have reported the matter to the police.

□ A fifth interesting feature from respondents' reactions is the importance of family structures. Cases two, three and four, in particular, showed the importance that respondents attach to the family. In the second crime description (the case of the hungry husband) quite a number of respondents (72) felt that this assault is a family matter in which the police have no right to interfere. In case three (the case of the jealous husband) 55 had strong ideas about the deceased person's role and thought that he deserved what he got, and 19 also blamed the wife for what

happened. Ten respondents actually said that both the wife and her boyfriend should have been killed. Concerning case four (where the mother assaulted her children), 20 respondents felt so strongly about the fact that the mother should stay to look after the children that they gave no imprisonment for the crime that had been committed.

- A last noticeable characteristic of responses has to do with woman's rights. Although, on the one hand, most respondents were severely annoyed with the man who offered the woman a job in exchange for sex (case five) and proposed that the foreman should get the maximum sentence available (for an act that was only a suggestion), a large number of respondents thought the assault taking place in case 2 (the hungry husband) quite justifiable because they see it as a family matter. A number of respondents actually said that the man had a right to beat her up because she does not respect him.

## 6.4 Further exploration of data

Section 6.2.3.1 showed no significant correlation between the Likert and Just Deserts scales. Even section 6.2.3.2, where the top and bottom 15 per cent of respondents on each scale were compared to the total sample in terms of the other scale, showed that people who scored high (or low) on one scale are not necessarily any more (or less) punitive with regard to the other scale than anyone else in the sample.

The question now arises why this should be so? Why is it that those

respondents who exhibited the most negative feelings toward criminals in terms of the Likert scale are not the same ones laying down severer sentences when they are confronted with more descriptive cases? In other words, why are people who expect of the criminal justice system to react more sternly and punitively toward criminals not the ones applying it when they get the chance?

In an attempt to answer this question (only partially, it must be admitted), the same technique applied in section 6.2.3.2 is used. The top and bottom 15 per cent of respondents on each scale are compared to the total sample in terms of various variables in an attempt to find out what characteristics they share in contrast to the total sample and the other groups. In other words, profiles of each of these four groups (HSL, LSL, HSJ and LSJ) are drawn that are compared with each other and to the total sample. The reasoning behind this is that, if it could be established what characteristics each of these groups have, this information might be able to tell us why they do not react similarly to the two scales.

The following aspects, which may distinguish each of the four groups from the total sample and from each other, are investigated:

- Demographic variables;
- responses to the Likert scale;
- responses to the Just Deserts scale; and
- reasons provided for their choices of sentences in the Just Deserts scale.

## **6.4.1 Demographic variables**

Referring back to table 6.5, HSL constitute those respondents whose total score on all 10 questions of the Likert scale falls in the top 15 per cent range (ranging from 46 to 50), whilst LSL (low scorers on the Likert scale) are those respondents who obtained the lowest scores (18 to 33). Fifteen per cent of 270 respondents would mean that 40,5 respondents would have to be used in each case. Because there were more than this number scoring 46 (HSL) and 33 (LSL) respectively, the actual numbers amounted to 51 for HSL and 44 for LSL.

As to HSJ (high scorers on the Just Deserts scale), the 15 per cent top scorers obtained counts ranging from 18 to 25. Forty-five respondent's total scores fell within this range. The low scoring group (LSJ) scored between four and ten. Fifty-nine respondents scored in this range.

The following demographic variables are subsequently analysed in terms of these four groups:

### **6.4.1.1 Area of residence**

The first demographic variables to which HSL and LSL on the one hand, and HSJ and LSJ, on the other, can be compared, is in terms of the areas in which they live. As an equal number of respondents (90) were taken from each area, the percentages of high and low scoring respondents living in each area are compared to 33,3 per cent:

**TABLE 6.22: RESIDENTIAL DISTRIBUTION OF HSL, LSL, HSJ, AND LSJ**

AREA OF RESIDENCE	NO. OF HSL LIVING IN AREA (n=51)	% OF HSL LIVING IN AREA	NO. OF LSL LIVING IN AREA (n=44)	% OF LSL LIVING IN AREA	NO. OF HSJ LIVING IN AREA (n=45)	% OF HSJ LIVING IN AREA	NO. OF LSJ LIVING IN AREA (n=59)	% OF LSJ LIVING IN AREA
MANKWENG	15	29,4%	17	38,6%	21	46,7%	20	33,9%
MAKGWARENG	22	43,1%	15	34,1%	15	33,3%	18	30,5%
THOLONGWE	14	27,5%	12	27,3%	9	20,0%	21	35,6%
TOTALS:	51	100,0%	44	100,0%	45	100,0%	59	100,0%

Concerning HSL and LSL, the figures above show that the majority of HSL (43%) are living in Makgwareng. The main characteristic of Makgwareng is that the highest percentage of female respondents (compared to the other two areas) is residing there (see section 6.1.2). Although these figures show that the majority of LSL are living in Mankweng (39 per cent against 34 per cent and 27 per cent for Makgwareng and Tholongwe respectively), one should be careful not to draw definite conclusions, as the differences are relatively small.

Of more significance could be that nearly half of HSJ (47 per cent) are living in Mankweng. Mankweng is also characterised by having the highest proportion of male respondents of all three areas (section 6.1.2), having the highest qualification levels (section 6.1.3) and also the highest average family income (section 6.1.4). LSJ, on the other hand, are fairly evenly distributed between the three residential areas.

#### 6.4.1.2 Gender

For HSL, which amounted to 51 respondents, 25 (or 49 per cent) were

male and 26 (51 per cent) female. This is about the same as the gender distribution of the total sample (49 per cent male against 51 per cent female). LSL showed the same tendency, where 22 of 44 (50 per cent) were men and 22 (50 per cent) women. Gender, therefore, does not seem to be a relevant factor in distinguishing between punitive and nonpunitive people on the Likert scale, a deduction confirmed by the fact that a correlation could not be established between gender and punitiveness in terms of the Likert scale (see section 6.2.4.1.1).

When comparing the relationship between HSJ and gender, however, men seem to be more punitive than women (see also the previous point where it was established that HSJ are mostly living in Mankweng, which has the largest relative proportion of males). In the HSJ group, 24 out of 45 (53 per cent) were men and 21 (47 per cent) women.

Interesting to note is that with LSJ (n=59), this tendency is the same, where those who scored the lowest on the Just Deserts scale also included more men (34 = 58 per cent) than women (25 = 42 per cent). The conclusion could possibly be drawn that, as it is men who score both the highest and the lowest on the Just Deserts scale, women seem to be more conservative when laying down sentences.

### 6.4.1.3 Age

Table 6.29 shows the percentage age distribution of HSL, LSL, HSJ, and LSJ:

**TABLE 6.23: AGE DISTRIBUTION OF HSL, LSL, HSJ, LSJ, AND TOTAL SAMPLE  
(14 CATEGORIES)**

AGE CATEGORIES	TOTAL SAMPLE (n=270)		HSL (n=51)		LSL (n=44)		HSJ (n=45)		LSJ (n=59)	
	No.	%	No.	%	No.	%	No.	%	No.	%
1. 16-20	34	12,6	5	9,8	9	20,5	3	6,7	10	16,9
2. 21-25	46	17,0	3	5,9	11	25,0	10	22,2	10	16,9
3. 26-30	36	13,3	4	7,8	6	13,6	8	17,8	8	13,6
4. 31-35	31	11,5	8	15,6	4	9,1	6	13,3	1	1,7
5. 36-40	24	8,9	4	7,8	5	11,4	3	6,7	4	6,7
6. 41-45	16	5,9	4	7,8	2	4,5	4	8,9	1	1,7
7. 46-50	32	11,9	6	11,7	4	9,1	3	6,7	9	15,3
8. 51-55	10	3,7	3	5,9	2	4,5	0	0,0	2	3,4
9. 56-60	23	8,5	12	23,9	1	2,3	4	8,9	8	13,6
10. 61-65	6	2,2	0	0,0	0	0,0	2	4,4	2	3,4
11. 66-70	4	1,5	0	0,0	0	0,0	0	0,0	2	3,4
12. 71-75	1	0,4	0	0,0	0	0,0	0	0,0	1	1,7
13. 76-80	3	1,1	0	0,0	0	0,0	0	0,0	1	1,7
14. 81-85	4	1,5	2	3,9	0	0,0	2	4,4	0	0,0
TOTALS:	270	100,0	51	100,1	44	100,0	45	100,0	59	100,0

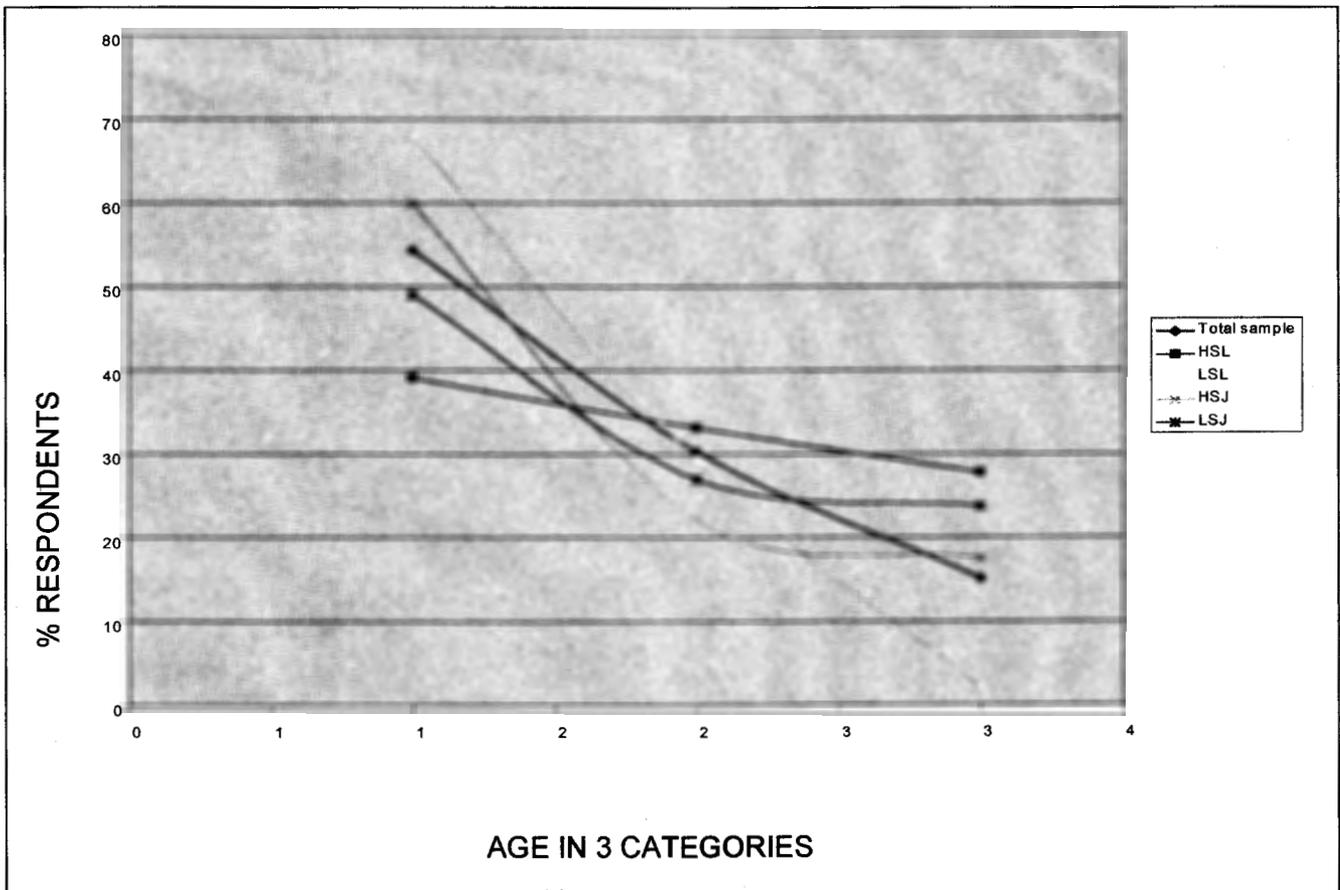
As these data are difficult to compare due to the number of categories, an abbreviated version showing the percentative representation could be drawn consisting of only three groups: Category 1 consisting of ages 16 to 35; category 2 of ages 36 to 55; and category 3 of ages over 55.

**TABLE 6.24: PERCENTATIVE AGE DISTRIBUTION OF HSL, LSL, HSJ, LSJ, AND TOTAL SAMPLE (3 CATEGORIES)**

AGE CATEGORIES	TOTAL SAMPLE	HSL	LSL	HSJ	LSJ
	%	%	%	%	%
1. 16-35	54,4	39,1	68,2	60,0	49,1
2. 36-55	30,4	33,2	29,5	22,3	27,1
3. More than 55	15,2	27,8	2,3	17,7	23,8
TOTALS:	100,0	100,1	100,0	100,0	100,0

Graph 6.1 represents these data as follows:

**GRAPH 6.1: PERCENTATIVE AGE COMPARISON OF TS, HSL, LSL, HSJ, AND LSJ (3 CATEGORIES)**



The figures for HSL show that the percentage of respondents falling in the lower, middle, and higher age groups are nearly linearly related, with the smallest percentage (of all the groups tested here) in the lower age group, and the highest percentage in the highest age group. When compared to the age distribution of the total sample, it shows much less respondents in the lower age group and much more in the higher group. This means, in terms of the total sample, that those people who reacted most punitively to the Likert scale fall in an older age group (which is in accordance with findings obtained in similar studies (see section 3.2.2.2.2)).

LSL, on the other hand, reflects an opposite trend: whereas HSL started off the lowest and ended the highest, people who reacted least punitive to the Likert scale show the least representation in the highest age group and the most in the lowest age group.

Concerning HSJ and LSJ, the situation is somewhat more complicated. Although a larger percentage of the young group of HSJ reacted punitively in terms of the Just Deserts scale than LSJ, these two groups ended up the other way around, with more respondents in the high age group being LSJ. This shows both younger and older people reacting more punitively in terms of the Just Deserts scale, whilst people in the middle age group seem to be less punitive. LSJ show a similar trend, with a curvilinear trend showing more young respondents than the total sample and also more older people. The curved nature of this trend is less accentuated, however, than is the case with HSJ.

#### 6.4.1.4 Qualifications

The qualification levels of HSL, LSL, HSJ and LSJ are as follows:

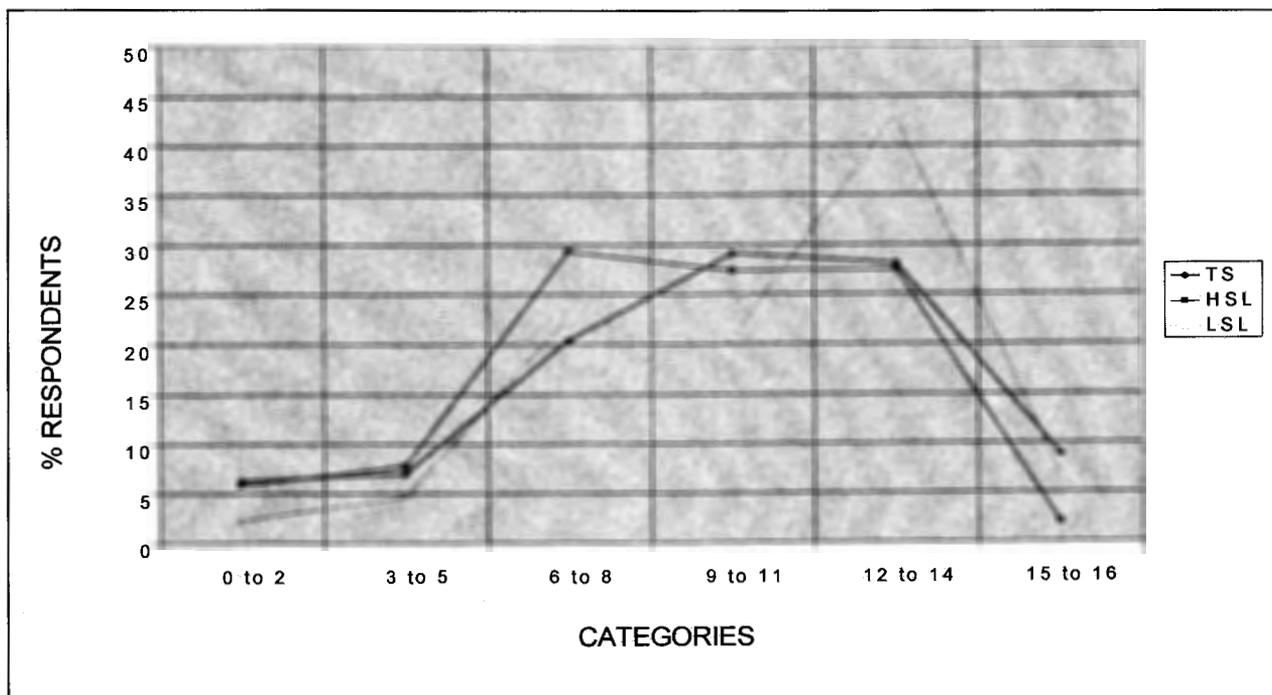
**TABLE 6.25: QUALIFICATION LEVELS OF HSL, LSL, HSJ, LSJ, AND TOTAL SAMPLE (17 CATEGORIES)**

HIGHEST QUALIFICATION OBTAINED:	TOTAL SAMPLE (n=270)		HSL (n=51)		LSL (n=44)		HSJ (n=45)		LSJ (n=59)	
	No.	%	No.	%	No.	%	No.	%	No.	%
0. No qualifications	15	5,6	3	5,9	1	2,3	3	6,7	3	5,1
1. Gr. 1	0	0,0	0	0,0	0	0,0	0	0,0	0	0,0
2. Gr. 2	2	0,7	0	0,0	0	0,0	0	0,0	2	3,4
3. Gr. 3/Std. 1	6	2,2	0	0,0	1	2,3	0	0,0	1	1,7
4. Gr. 4/Std. 2	7	2,6	2	3,9	1	2,3	0	0,0	3	5,1
5. Gr. 5/Std. 3	6	2,2	2	3,9	0	0,0	0	0,0	1	1,7
6. Gr. 6/Std. 4	14	5,2	4	7,8	1	2,3	3	6,7	6	10,2
7. Gr. 7/Std. 5	14	5,2	4	7,8	2	4,5	0	0,0	2	3,4
8. Gr. 8/Std. 6	27	10,0	7	13,8	7	15,9	3	6,7	7	11,8
9. Gr. 9/Std. 7	19	7,0	3	5,9	3	6,8	1	2,2	6	10,2
10. Gr. 10/Std. 8	31	11,5	9	17,6	4	9,1	6	13,3	5	8,5
11. Gr. 11/Std. 9	29	10,7	2	3,9	2	4,5	5	11,1	5	8,5
12. Matric	64	23,7	12	23,5	16	36,4	11	24,4	10	16,9
13. Matric+1 yr.	3	1,1	1	2,0	1	2,3	1	2,2	0	0,0
14. Matric+2 yrs.	9	3,3	1	2,0	2	4,5	5	11,1	0	0,0
15. Matric+3 yrs.	15	5,6	1	2,0	3	6,8	5	11,1	5	8,4
16. Matric+4 yrs.	9	3,3	0	0,0	0	0,0	2	4,4	3	5,1
<b>TOTALS:</b>	<b>270</b>	<b>99,9</b>	<b>51</b>	<b>100,0</b>	<b>44</b>	<b>100,0</b>	<b>45</b>	<b>99,9</b>	<b>59</b>	<b>100,0</b>

To make these figures easier to interpret, graphs 6.2 and 6.3 condense them into six categories. The distribution of qualifications for HSL and LSL in terms of the total sample can subsequently be

presented as follows:

**GRAPH 6.2: PERCENTATIVE DISTRIBUTION OF HIGHEST QUALIFICATIONS OBTAINED OF HSL AND LSL IN TERMS OF THE TS**

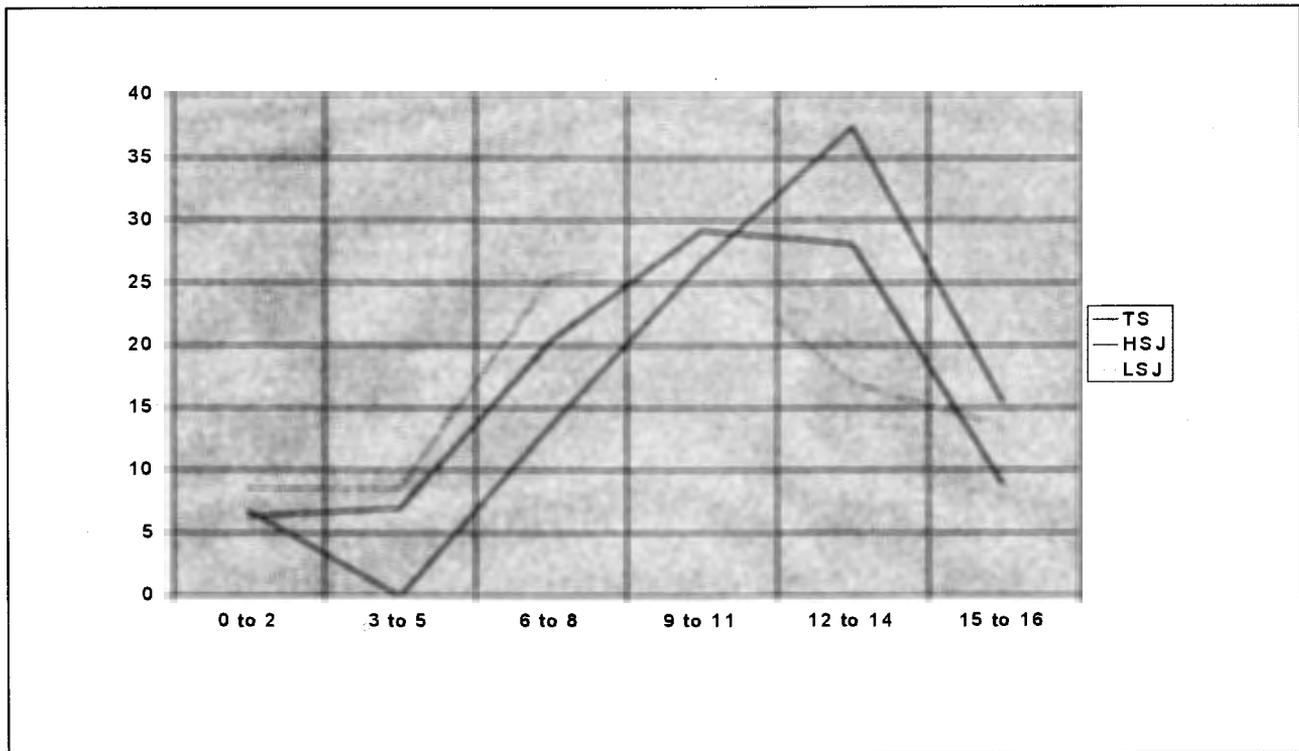


In this graph, the line depicting HSL follows a fairly similar pattern to that of the total sample, although it contains a little more respondents in the first three categories (an average of 3 per cent higher) and a little less (3 per cent on average) in the last three. That of LSL, however, shows less respondents in the first four age categories (4 per cent on average), but peaks in category five, where it is 15 per cent higher than the percentage obtained for the total sample. These trends are confirmed by the average qualifications for the three groups, where the average for the total sample is 9,55, that for HSL is somewhat lower at 8,84; and that for LSL is 10,23, showing that those scoring higher on the Likert scale

have lower qualifications, on average, than the total sample, whilst LSL have higher qualifications.

In terms of high and low scorers on the Just Deserts scale, the following graph can be drawn:

**GRAPH 6.3: PERCENTATIVE DISTRIBUTION OF HIGHEST QUALIFICATIONS OBTAINED OF HSJ AND LSJ IN TERMS OF THE TOTAL SAMPLE (TS)**



This graph depicts a nearly opposite pattern in terms of low and high scorers compared to the previous one. Whereas HSL showed more respondents in the first three categories, HSJ seem to follow the same pattern as LSL, namely more respondents in the last three categories, and a peak in the category 12 - 14. It can consequently be inferred that, whilst high scoring on the Likert scale is

inversely related to the level of qualification, the opposite is true in the case of HSJ, where those who scored the highest seem to have higher qualification levels than either the total population or LSJ. This is confirmed by looking at the averages, where the average qualification level of HSJ is 10,84.

#### 6.4.1.5 Household income

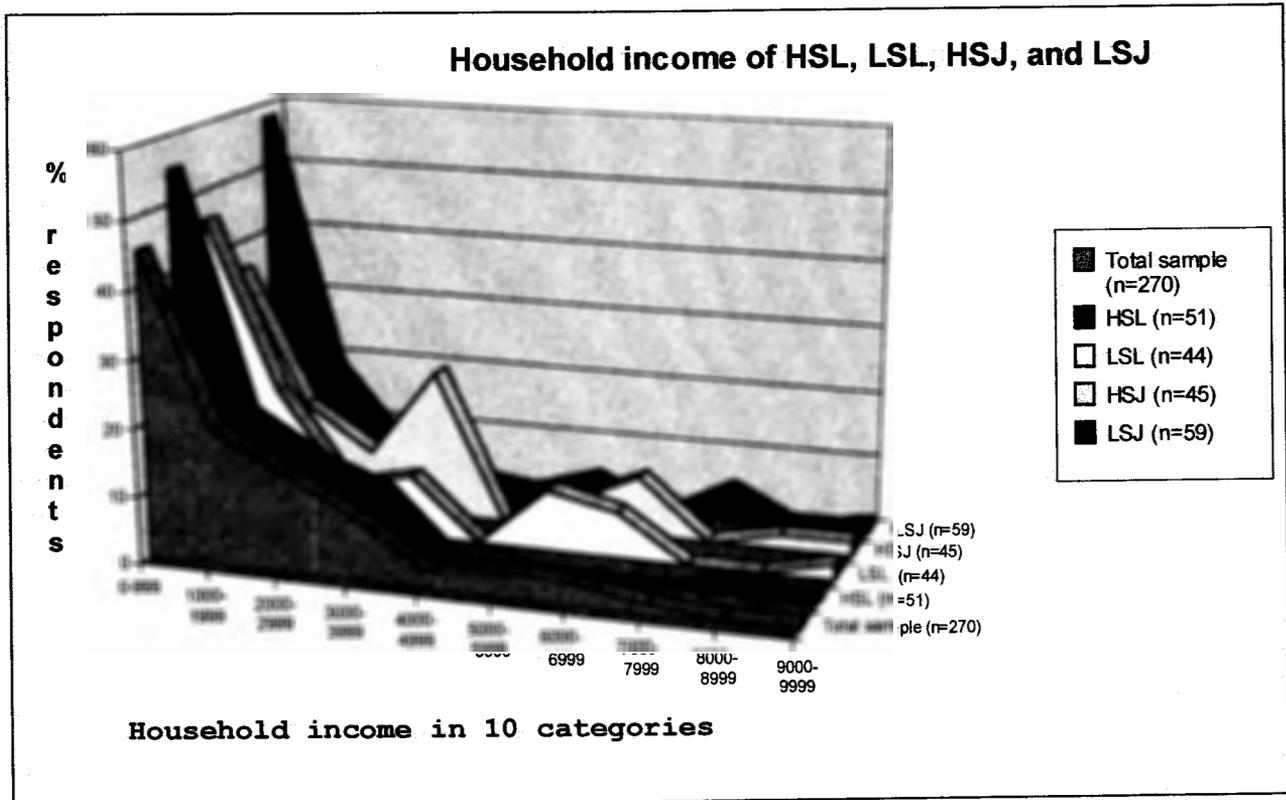
The household income figures for HSL, LSL, and the total sample in terms of household income are presented in Table 6.32 (Categories are reduced to 10).

**TABLE 6.26: HOUSEHOLD INCOME OF HSL, LSL, HSJ, AND LSJ**

HOUSEHOLD INCOME	TOTAL SAMPLE (n=270)		HSL (n=51)		LSL (n=44)		HSJ (n=45)		LSJ (n=59)	
	No.	%	No.	%	No.	%	No.	%	No.	%
1. 0-999	122	45,2	28	54,9	20	45,5	16	35,6	34	57,6
2. 1000-1999	53	19,6	10	19,6	9	20,4	7	15,6	11	18,7
3. 2000-2999	39	14,5	7	13,7	3	6,8	4	8,9	4	6,8
4. 3000-3999	25	9,3	5	9,8	4	9,1	10	22,2	2	3,4
5. 4000-4999	6	2,2	0	0,0	0	0,0	0	0,0	1	1,7
6. 5000-5999	10	3,7	0	0,0	4	9,1	2	4,4	3	5,1
7. 6000-6999	8	3,0	0	0,0	3	6,8	4	8,9	0	0,0
8. 7000-7999	4	1,4	0	0,0	0	0,0	0	0,0	3	5,1
9. 8000-8999	1	0,4	1	2,0	0	0,0	1	2,2	0	0,0
10. 9000-9999	2	0,7	0	0,0	1	2,3	1	2,2	1	1,7
TOTAL	270	100,0	51	100,0	44	100,0	45	100,0	59	100,1

These comparisons can also be graphically presented as follows:

**GRAPH 6.4: FAMILY INCOME OF HSL, LSL, HSJ, AND LSJ**



Compared to the curve presenting the total sample, that of HSL starts off higher (18%) which indicates a higher percentage of respondents in the lowest household income category. In contrast, LSL show more respondents in some of the higher income categories<sup>16</sup>. These findings

<sup>16</sup> The peaks occurring in the categories 0-999, 3000-3999, and 5000-6999 can probably be ascribed to the types of employment of respondents and/or their family members. The low income group possibly represent unemployed people or people living off pensions, the middle group people doing some kind of unskilled labour or families of which only one member has a job, whilst the

are consistent with point 6.2.4, where a negative correlation between TP and family income was established (in other words, that people in higher income groups are less punitive).

HSJ, however, represent the lowest percentage of respondents in the lowest income group (36%), and the highest in the middle income group 3000-3999. The LSJ-group, on the other hand, shows the largest percentage of all groups in the lowest income category (57 per cent against a percentage figure of 45 for the total sample). This is confirmed in section 6.2.4.2, where a positive correlation between family income and JDT has been obtained.

#### 6.4.1.6 Victim status

The following numbers of victims amongst HSL, LSL, HSJ, LSJ and the total sample, have been obtained:

- 18 victims in the HSL-group (that is 35%);
- 11 victims out of 44 in the LSL-group (25%);
- 13 out of 45 in the HSJ-group (29%);
- 13 out of 59 in the LSJ-group (22%) and
- 107 victims in the total sample (40%).

Although the percentages of LSL, HSJ, and LSJ are less than that of the percentage of victims in the total sample, the number of victims on which these comparisons are based are probably too low to draw meaningful inferences.

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higher income groups are possibly people employed by the government or the university. This, however, is mere speculation, as respondents were not asked what type of employment they hold.

## 6.4.2 Reactions of HSJ and LSJ in terms of the Likert scale

Although it is known HSL and LSL are the respondents scoring respectively the highest and the lowest on this scale, what needs to be established is how HSJ and LSJ scored in terms of the Likert scale.

The average scores of HSJ and LSJ on the Likert scale can be compared as follows to the average scores of the total sample:

**TABLE 6.27: AVERAGE SCORES OF HSJ, LSJ, AND THE TOTAL SAMPLE ON THE LIKERT SCALE**

	<b>TOTAL SAMPLE (n=270)</b>	<b>HSJ (n=45)</b>	<b>LSJ (n=59)</b>
TP	39,3	39,2	39,4
TP137	9,8	9,7	10,0
TP135710	17,5	17,4	18,1

This table shows HSJ to be a little less punitive in terms of the Likert scale than the total population and LSJ a little more punitive. These differences are so small as to be insignificant, however.

## 6.4.3 Reactions of HSL and LSL in terms of the Just Deserts scale

When the average reactions of HSL and LSL are compared to total sample in terms of the Just Deserts scale, the figures are as follows:

**TABLE 6.28: AVERAGE SCORES OF HSL, LSL, AND THE TOTAL SAMPLE ON THE JUST DESERTS SCALE**

	TOTAL SAMPLE (n=270)	HSL (n=51)	LSL (n=44)
JDT	13,8	13,3	13,4
JDT2-6	7,0	6,3	6,9
JDT1-6	10,0	9,5	9,6
JDT1-5	9,2	8,9	8,6

Interesting to note is that HSL score somewhat lower than LSL and that both are less punitive than the total sample in terms of the Likert scale. The biggest differences between HSL and LSL occur in JDT2-6, where a percentative difference of nine can be observed. Again, these differences are too small to make significant inferences. It is illuminating, however, that if any deductions were to be made, the two scale seem to be negatively related (i.e. that those people who score high on one scale score low on the other, and vice versa) instead of positive.

#### **6.4.4 Findings with regard to open-ended questions**

The last variable with which to draw profiles of the four groups; HSL, LSL, HSJ and LSJ, is the open-ended questions accompanying each crime description of the Just Deserts scale. These questions have the advantage of showing the motivation of respondents for their choices. The argument here is that variations in the way these different groups accentuate distinct aspects relating to crime, may be able to tell us more about each one.

The total scores obtained for each category (i.e. the number of respondents mentioning particular categories for all seven crime descriptions) will be used here. There are two reasons for this:

- Firstly, because singular crimes are crime specific, compelling us to look at responses to as many crimes as possible to obtain generalised reactions; and
- secondly, because the numbers involved in all seven crime descriptions, especially with regard to the subgroups HSL, LSL, HSJ and LSJ, provide a more valid basis for percentative comparison than would be the case with single crimes, where categories often involve only ones or twos.

Looking at the 18-category distribution obtained under 6.3.5, a percentative distribution for HSL, LSL, HSJ and LSJ in terms of the total sample is as follows:

**TABLE 6.29: PERCENTATIVE DISTRIBUTION OF TS, HSL, LSL, HSJ AND LSJ IN TERMS OF FREQUENCY OF RESPONSES TO OPEN-ENDED QUESTIONS**

		GROUPS OF RESPONDENTS										
Cat.	Description	TS		HSL		LSL		HSJ		LSJ		
		No.	%	No.	%	No.	%	No.	%	No.	%	
PUNITIVE RESPONSES	1	= Crime	301	15,9	49	13,7	48	15,9	69	22,4	37	8,9
	2	Effects of the crime	93	4,9	19	5,3	13	4,3	14	4,5	12	2,9
	3	Wrongness of act	353	18,7	61	17,1	70	23,3	74	24,0	74	17,9
	4	Guilt/intention	38	2,0	4	1,1	7	2,3	9	2,9	3	0,7
	5	= Criminal	63	3,3	14	3,9	6	2,0	7	2,3	14	3,4
	6	Should've acted differently	166	8,8	36	10,1	23	7,7	36	11,7	30	7,3
	7	Sympathy: victim	22	1,2	5	1,4	4	1,3	7	2,3	4	1,0
	8	Retribution	69	3,6	11	3,1	13	4,3	12	3,9	15	3,6
	9	Deterrence	102	5,4	26	7,3	16	5,3	11	3,6	27	6,5
	10	Protection of the community	16	0,8	0	0,0	3	1,0	4	1,3	6	1,5
	11	Rehabilitation	11	0,6	3	0,9	2	0,7	1	0,3	5	1,2
NON-PUNITIVE RESPONSES	12	Is not a crime	71	3,8	9	2,5	7	2,3	5	1,6	20	4,8
	13	Sympathy: offender/family	55	2,9	13	3,6	4	1,3	5	1,6	17	4,1
	14	Mitigating factors	179	9,5	37	10,4	29	9,6	23	7,5	41	9,9
	15	Not guilty/no intention	90	4,8	17	4,8	17	5,7	7	2,3	33	8,0
	16	Admitted guilt/showed remorse	8	0,4	0	0,0	2	0,7	4	1,3	0	0,0
	17	Victim/other person's fault	191	10,1	38	10,6	28	9,3	12	3,9	59	14,3
	18	Other solution (not imprisonment)	62	3,3	15	4,2	9	3,0	8	2,6	16	3,9
		1890	100,0	357	100,0	301	100,0	308	100,0	413	99,9	

As expected, the biggest differences above occur between HSJ and LSJ. With regard to retribution-related aspects (those emphasising the wrongness of the crime with the underlying idea that this is why punishment is needed), HSJ generally score higher than LSJ:

- Is a crime: 22% ↔ 9%;
- Effects of the crime: 5% ↔ 3%;
- Wrongness of the act: 24% ↔ 18%;
- Guilt/intention: 3% ↔ 1%;
- Should've acted differently: 12% ↔ 7%;
- Sympathy with offender: 2% ↔ 1%; and
- Retribution itself: 3% ↔ 4%.

An interesting exception is in the case of deterrence, where there was a higher percentage of LSJ indicating deterrence as a reason for punishing the offender than HSJ.

Regarding non-punitive responses, LSJ, in turn, scored higher than HSJ:

- "Not a crime:" 5% ↔ 2%;
- "Sympathy with offender:" 4% ↔ 2%;
- "Mitigating factors:" 10% ↔ 8%;
- "Not guilty/not intentionally:" 8% ↔ 2%;
- "Victim/other person's fault:" 14% ↔ 3%.

This finding, as mentioned, is not surprising since these two groups are the highest and lowest scorers and it was to be expected that those who laid down the most severe punishments would mostly provide punitive reasons for their choices (and vice versa).

The relationship between HSL and LSL in terms of their reasons for just deserts seems to be somewhat more complex. An unexpected finding was that, in terms of some retribution-related factors, HSL generally scored lower than LSL:

"Is a crime:" 14% ↔ 16%;

"Wrongness of crime:" 17% ↔ 23%;

"Guilt/intention:" 1% ↔ 2%; and

"Retribution:" 3% ↔ 4% ("Protection of the community" is not included in this list because of the low numbers involved).

Adversely, with regard to the non-punitive categories, somewhat more HSL have mentioned them than LSL:

"Not a crime:" 3% ↔ 2%;

"Sympathy with offender:" 4% ↔ 1%;

"Mitigating factors:" 10% ↔ 10%;

"Victim/other person's fault:" 11% ↔ 9%; and

"Other solution (not imprisonment):" 4% ↔ 3%.

The reason why "Is a criminal;" "Should have acted differently;" "Sympathy with the victim;" and even "Deterrence" differs from the others in terms of the fact that they were chosen by more HSL than LSL does not seem to fit the pattern, but it may be postulated that they differ from the others by being person-oriented, whilst the others were mostly crime oriented. To test this presumption, responses to open-ended questions were re-categorised into the following 8 categories:

1. Punitive responses relating to the crime;
2. Punitive responses relating to the criminal;
3. Punitive responses relating to the victim;

4. Punitive responses relating to punishment;
5. Non-punitive responses relating to the crime;
6. Non-punitive responses relating to the criminal;
7. Non-punitive responses relating to the victim; and
8. Non-punitive responses relating to punishment.

As will be noticed from the above categories, 5 to 8 seem to represent the opposites of 1 to 4. One must be careful in this respect, however, because the real answers provided by respondents do not neatly fall into categories one devise, and 5 to 8 should therefor only be seen as broadly presenting the mirror image of 1 to 4. This representation, however, provides interesting information when the views of different people are compared with regard to it.

Other advantages of this redistribution of categories are:

1. That it makes drawing inferences from data much easier since only four basic categories have to be dealt with; and
2. that the categories presented here are more mutually exclusive.

**TABLE 6.30: PERCENTATIVE DISTRIBUTION OF TS, HSL, LSL, HSJ AND LSJ IN TERMS OF FREQUENCY OF RESPONSES TO OPEN-ENDED QUESTIONS (8 CATEGORIES)**

PUNITIVE RESPONSES	LSJ	%	29,8	11,4	1,0	12,8
		No.	123	47	4	53
	HSJ	%	51,0	16,9	2,3	9,1
		No.	157	52	7	28
	LSL	%	43,5	12,0	1,3	11,3
		No.	131	36	4	34
	HSL	%	36,1	15,1	1,4	11,2
		No.	129	54	5	40
	TS	%	39,5	14,1	1,2	10,6
		No.	746	267	22	200
4 CATEGORIES:		1. CRIME	2. CRIMINAL	3. VICTIM	4. PUNISHMENT	
NON-PUNITIVE RESPONSES	TS	No.	72	332	190	61
		%	3,8	17,6	10,0	3,2
	HSL	No.	9	68	38	14
		%	2,5	19,0	10,6	3,9
	LSL	No.	7	52	28	9
		%	2,3	17,3	9,3	3,0
	HSJ	No.	5	39	12	8
		%	1,6	12,7	3,9	2,6
	LSJ	No.	21	91	58	16
		%	5,1	22,0	14,0	3,9

Table 6.36 shows the differences between HSL and LSL, as well as those between HSJ and LSJ more clearly.

As to the differences between HSJ and LSJ, HSJ scored higher in terms of categories one (51%↔30%); two (17%↔11%); and also three (2%↔1%). With regard to the non-punitive categories, LSJ score higher in all four categories (5%↔2%, 22%↔13%, 14%↔4% and 4%↔3%). As mentioned above, this was to be expected since these are the groups scoring respectively the highest and the lowest on the Just Deserts scale. When these two groups are compared with the total sample, it is noteworthy that HSJ-scores are constantly above the average score in the case of punitive responses and below the average score in the case of nonpunitive responses (except in the case of category 4 of the punitive responses - punishment - where it is a little lower than the average). One can therefore conclude that HSJ are those people who concentrate the strongest on the wrongness of the crime, the negative characteristics of the criminal, and the damage done to the victim, when laying down sentences. LSJ, on the other hand, are more concerned about the fact that the crime is not that serious, are more lenient toward the offender, and are often of the opinion that the victim (or someone else) could be blamed for the crime.

Concerning HSL and LSL, however, the situation is more interesting. If one looks at the percentages of punitive versus non-punitive responses of HSL and LSL, it appears that HSL are less likely to react punitively toward crime descriptions than LSL. In the case of HSL, 64 per cent reacted punitively and 36 per cent non-punitively, whilst 68 per cent of LSL reacted punitively toward the crime descriptions against 32 per cent who reacted non-punitively.

With regard to the category distribution it seems that, whilst HSL are less punitive in terms of the crime as such, they reacted more punitively in terms of the criminal. On the other hand, LSL

reacted less non-punitively (in other words more punitive) than HSL to all categories at the non-punitive responses. The differences, however, are quite small and could be ascribed to chance. It can accordingly be speculated that HSL are, on average, less punitive than both the TS and LSL in terms of their reactions to the crime descriptions. In addition, it seems as if they are less interested in the wrongness of the crime than LSL, but more concerned about the characteristics of the offender.

## 6.5 Summary of findings

Under this section the main findings in chapter six are summarised.

### 6.5.1 Demographic variables

The demographic variables that were used in this study include: Area of residence; gender; age; highest qualification obtained; family income; and victim status.

An equal number of respondents (90) were selected from each of Mankweng, Makgwareng and Tholongwe. Mankweng is the area adjacent to the University of the North and the figures show both the qualification levels and household incomes to be the highest of the three residential areas. Tholongwe had the youngest population as well as the lowest average level of qualifications.

Concerning the gender distribution of respondents, there were a small preponderance of female respondents in the sample compared to males, with Mankweng the only residential area with more males than females. The reason for the fact that there were more females in the other

two areas could be that many males from the rural areas are working in other provinces.

The age distribution of respondents follow a gradual downwards trend from young to old, with nearly 55 per cent of respondents in age categories 35 years and younger. The average age was about 33 years.

The average qualification level was approximately standard seven. An interesting finding was that the average qualification level of males were approximately one year more than that of females.

The figures show that nearly 45 per cent of families earn less than R1000 per month and more than 75 per cent less than R2500. There were, however, a few families whose monthly income was approximately R10 000.

Twenty-nine per cent of respondents indicated that they had been victims of crime during the previous two years. This figure is slightly higher than the national average, and includes significant numbers of violent crimes against the respondents.

In conclusion, one could identify these three residential areas involved as fairly representative of other such places in the Northern Province, with the exception of Mankweng, where the University of the North provides employment opportunities, the residents of these areas are rather poor with high unemployment rates. Other characteristics are a high population growth figure, a relatively high percentage of illiterate people (especially amongst older residents) and a preponderance of women due to the absence of their husbands who are working in other provinces, mostly in Gauteng.

## **6.5.2 Findings on punitiveness**

### **6.5.2.1 Findings relating to the Likert scale**

In spite of attempts to devise statements that would draw more balanced responses (see section 4.2.2.4), reactions to Likert scale-statements were overwhelmingly punitive, with an average response to all statements of 3,93 out of a possible 5. None of the ten questions elicited more non-punitive than punitive responses (Number 7 which states that the purpose of the prison is to rehabilitate came the nearest with 2.66), and almost all respondents scored between 45 and 50 with respect to this statement. In spite of some statements that were quite extreme, such as "Child molesters are animals...", and "All rapists should be put in prison for at least 20 years," respondents reacted most punitively toward all the statements. These figures indicate very little tolerance toward criminals, crime and the criminals justice system.

### **6.5.2.2 Findings about the Just Deserts scale**

Responses to the seven categories of the Just Deserts scale were more moderate, with an average of 1,98 that is nearly halfway between nil and four. A wider distribution of average reactions has also been attained, which can be ascribed to the particulars of the crime description to which they had to react. Average responses range, for example between 0,76 (in the case of the "hungry husband") to 3,83 (out of a possible 4 in the case of the "Hoax policeman hijack a motor vehicle").

### 6.5.2.3 Findings on the relationship between the two scales

The most significant finding of this study has to do with the relationship between the two scale, namely the question of whether a positive correlation could be established between the two scales. In other words, whether people who react punitively in terms of the one scale would also react punitive in terms of the other, and vice versa.

No correlation could be established between these two scales, however. Even in the case of derivatives (sub-combinations of the scales), as well as comparisons between high and low scorers on each one scale. As to the other, no significant correlation could be found.

### 6.5.2.4 Findings regarding the relationship between demographic variables and punitiveness

The next step was to determine whether correlation exists between any of the demographic variables and punitiveness in terms of the Likert and Just Deserts scales.

As to the Likert scale, a significant positive correlation was established between age and punitiveness (meaning that people get more punitive as they get older), a highly significant negative correlation between qualifications and punitiveness (indicating that people in higher qualification groups are less punitive) and also a significant negative relationship between household income and punitiveness. No correlation could be found in terms of gender and punitiveness and victim status and punitiveness, however. These findings suggest then, that older people are more punitive than

younger people, but that those with higher qualifications or a higher family income are less punitive than those with lower qualifications or from poorer families.

Pertaining to the Just Deserts scale, significant correlation between qualification-level and punitiveness and household income and punitiveness were also established, but with the difference that these correlations were positive, indicating that people with higher qualifications and from richer families tend to support longer terms of imprisonment than their opposites. In this case, no correlation could be established between punitiveness and age, gender and victim status.

These findings confirm, to a certain extent, the findings of the previous point on the absence of a relationship between the Likert scale and the Just Deserts scale by showing that respondents who have higher educational levels and higher socio-economic status score, in turn, lower on the Likert scale but higher on the Just Deserts scale.

#### 6.5.2.5 Findings on responses to open-ended questions

Open-ended questions were categorised in terms of 18 points: 11 of them representing punitive reactions and 7 non-punitive reactions. These 11 punitive and 7 non-punitive reactions were, in turn, grouped into 4 headings, those having to do with respectively the crime, the criminal, the victim and punishment.

Findings with regard to individual crime descriptions showed much variety depending on the individual traits of the description. With regard to all seven descriptions together, however, the following deductions can be made:

- That a high level of punitiveness of respondents is evident, not only from the sentences that were prescribed, but also in the number of times respondents reacted punitively versus non-punitively toward crime descriptions.
- That, as to the motives of punishment, respondents' responses reflected retribution as motive in nearly 90 per cent of instances.
- That respondents show an inherent respect for the law in terms of its image and reacted strongly toward offenders whose actions damage this image.
- A fourth interesting deduction is that some respondents view adultery as a crime, and some even viewed an invitation to a fight as a matter to report to the police.
- Family structures seems to be quite important to respondents. They seem to have strong ideas about the roles to be played by the husband and the wife, and some even justified murder as a suitable reaction toward adultery. In the case of the mother who assaulted her children, there was also some support for a view that punishment should be ignored so that the mother could remain to look after her children.
- Pertaining to woman's rights, an interesting finding was that respondents reacted much more punitively toward the man who offered a woman a job on condition that she first had sex with him, than to the man who assaulted his wife. In the last instance, the assault was justified on the grounds that he had a right to do so since she was lazy and failed to clean and cook.

### **6.5.3 HSL, LSL, HSJ and LSJ in terms of the demographic variables**

Gender does not seem to be a relevant factor with regard to the differences between HSL and LSL. In terms of the relationship between HSJ and gender, however, more men are represented in HSJ.

In terms of age, HSL fall mostly in the higher age groups and LSL in the younger age groups. HSJ and LSJ, however, presents a more complex picture where both more younger and older people (that the total sample) score both high and low on the Just Deserts scale. This means that those people who are most punitive (or non-punitive) in terms of the Just Deserts scale come from the younger and older groups while people who react more moderately fall in the middle age groups.

A comparison between qualifications and these groups showed that HSL had lower qualifications than the total sample, whilst LSL's qualification levels were higher. In the case of HSJ and LSJ, we get an almost opposite trend, with the qualification levels of HSJ more than the total sample and LSJ less.

As for family income, HSL earned somewhat less than the average income for the total sample whilst LSL earned somewhat more. Again, this trend was opposite in terms of HSJ and LSJ, where HSJ earned more than the average while LSJ earned the least of all groups.

Concerning victim status, no meaningful relationship in terms of the differences between these groups and victim status could be established.

#### **6.5.4 HSL and LSL in terms of the Just Deserts scale**

HSL scored a little lower than the total sample on the Just Deserts scale and LSL a little higher. The numbers involved are not enough to draw significant inferences, however.

#### **6.5.5 HSJ and LSJ in terms of the Likert scale**

HSJ, in turn, scored a little lower on the Likert scale than the average, whilst LSJ score a little higher. Again, the differences involved are too small to make significant deductions.

#### **6.5.6 HSL, LSL, HSJ and LSJ in terms of responses to open-ended questions**

When comparing these groups in terms of an 8-point category distribution, HSJ can be described as those people who concentrate the strongest on the wrongness of the crime, the negative characteristics of the offender, and the damage done to the victim. LSJ are of the opinion that the crime is not that serious, are more concerned about the plight of the offender, and often apply blame to the victim or someone else. Regarding the differences between HSL and LSL, on the other hand, HSL are less punitive than LSL in terms of the crime as such, but awards more blame to the criminal. LSL reacted more punitively in terms of the non-punitive categories than HSL. It would seem then that HSL, on average, are a little less punitive than LSL and are also more concerned about factors concerning the criminal than the crime.

## 6.5.7 Profiles of HSL, LSL, HSJ and LSJ

If one draws the evidence together, the following four profiles can be created:

- HSL can be described as people somewhat older than the total sample, but whose qualification levels are a little lower and whose family income is a little lower as well. Although they are the highest scorers on the Likert scale, they scored a little less punitive in terms of the Just Deserts scale than both the total sample or LSL. Concerning the open-ended questions, it seems as if they are also a little less punitive than LSL regarding the crime committed, but somewhat more punitive in terms of the role of the criminal. In total, however, they are less punitive in terms of the Just Deserts scale than LSL.
- LSL follows a nearly opposite trend (than HSL). They consist of younger people with higher qualifications and higher socio-economic status. With regard to both the Just Deserts scale and the open-ended questions accompanying it, they score a little higher than HSL.
- HSJ are represented by the youngest and the oldest segment in the age distribution. They have higher education levels than both the average and LSJ, and their family income is also more. They scored a little lower in terms of the Likert scale but were most focused on the wrongness of the crime in terms of the open-ended questions in the Just Deserts scale.
- LSJ follows an opposite trend, scoring a little higher in terms of the Likert scale than HSJ, but are less concerned about the crime, are more concerned about the plight of the victim and more

often apply blame to the victim or someone else. As to the relationship between demographic variables and LSJ, no real relationship could be established, which probably means that this group shares much the same characteristics than the total sample.

To summarise, it is clear that the opposite groups from the two scales do not only represent differences with respect to each other, but also in relation to the opposite scale. Why this should be so is not clear, although these findings show that totally opposing factors seem to be at work in these two cases, where not only different groups of people are presented, but that they also differ with respect to the ways in which they think.

# CHAPTER 7: CONCLUSIONS

## 7.1 Main findings

In chapter one, two basic aims were set out for this study: Firstly to determine just *how* punitive the public is and secondly to make an attempt to find out what this punitiveness means.

The main findings obtained in this study, namely that no correlation exists between punitiveness in terms of the Likert scale and the amount of punishment laid down as to the Just Deserts scale came as quite a shock to the researcher. The initial idea with this study was that, if a significant and strong correlation could be established between these two scales, it would mean that the statements provided in the Likert scale could be related to the responses given in open-ended questions (that is, the reasons respondents provided for their choices of sentences in the Just Deserts scale) and *vice versa*. A comparison between aspects such as the statements included in the Likerts scale, the sentences that were laid down in the Just Deserts scale and the reasons given for their choices would then have provided an interesting basis for study.

As for the findings that have actually been obtained here, they show that determining public opinions on punishment is a more complicated process depending on various factors. The data that have been obtained show that there seems to be a definite difference between those who score high on the Likert scale (or react punitively toward

general statements about crime) and those who score high on the Just Deserts scale (lay down sentences that are severe to more specific crime descriptions). Apart from the fact that no positive correlation could be established between the two scale, it was found that - if any correlation could be drawn - **it would rather be a negative one.** Some of the clearest evidence for this finding are:

- That comparisons between demographic variables and punitiveness show a negative correlation between qualifications and family income in terms of the Likert scale but a positive one in terms of the Just Deserts scale; and
- Also with respect to the comparisons between high scorers and low scorers of the various scales, an almost opposite trend in terms of their reactions to the alternative scale could be detected.

A number of other information obtained in chapter six (as mentioned there) also indicate this trend, although the trends involved are often too small to make significant deductions).

## 7.2 Reasons for the differences

It seems as if people have a dual outlook with respect to these two issues. As mentioned in the literature study (chapter three), short descriptions of crimes lead people to fill in the gaps for themselves, and they often think in terms of more violent and dangerous criminals when reacting to these descriptions (Walker & Hough 1988:5). Punitive reactions to the Likert scale seem to be an example of where people who are older, poorer, and having lower qualifications and income can "lash out" against those elements they hold responsible for the crime situation and the perceived threat

it poses. These people, it can be argued, support the harshest possible threats against criminals that are "faceless" (unknown and where abstract concepts are involved). The same people, however, shows just as much, or even more, sympathy toward the offender when these descriptions are described in more detail, in other words when more information is provided of the offender and of the (often difficult) predicament he found himself in when he committed the crime.

In terms of those respondents scoring high on the Just Deserts scale, information obtained in this study is unable to tell us why they react differently in terms of the Likert scale, but it is clear that they share other characteristics (in other words that the people scoring high and low on this scale are not the same ones scoring either high or low on the Likert scale) and that a totally different set of criteria influences people when it comes to considering suitable lengths of imprisonment for specific crimes.

Maybe the reason for the differences should be sought in differences in perceptions. Various writers have indicated that it is not necessarily the real effects of crime that influence opinions, but more often the perceptions about the incidence and severity of crime as a problem. Banks *et al.*, for example, found that women tended to think that murder and sexual offences against children had increased appreciably, whereas men were more inclined to think the number of offences against property had risen (1985:228). Whereas people with less education would then be more punitive as to generalised statements (where they perceive the criminal in the worst possible light), people who have higher qualifications as well as money to

afford information sources would have a more balanced outlook in this regard.

On a penological level, and in terms of the punishment motive of retribution in particular, it seems that a clear distinction cannot be drawn between the revengeful and calculated sides of retribution. From the findings obtained in this study it would seem that the same people would react both revengefully and calculated, depending on the nature and amount of information presented to them. People opposing retribution on the grounds that it constitutes vengeance as well as those supporting it as being just and fair could thus both be right, and the focus should perhaps not be placed on whether retribution should be used as a motive for punishing people, but on the process of data provision to those who make decisions. If looked at from another angle it would seem that, although some people are clearly more punitive than others, this punitiveness does not necessarily hold when information is presented in other contexts. Another way of phrasing this would be to state that people, in general, seem to be quite impressionable, and that, although there are definitely differences between people in terms of their levels of punitiveness, the nature of data presented to them and the way in which it is presented may influence opinions appreciably.

### **7.3 The significance of this study**

The main significance of this study seems to be that the type of reactions by the public in terms of opinion poll-types of questions have little reference in terms of what they would choose if they were in the shoes of sentencing officials: In other words, that those

people showing the most intolerance toward the situation in terms of dissatisfaction with the crime, the criminal and the way it is handled by the criminal justice system would not necessarily react the same way when they are confronted with real situations. One should be careful not to interpret this as if though the public are not punitive in general, but rather that this punitiveness works in an indirect way and that various other factors play a role in sentencing.

As to the importance with which members of the judiciary should view public opinion polls, it is clear that the percentage of people supporting, for example, the re-introduction of the death penalty, should be viewed with suspicion, and such officials can accept that people, in general, will react quite differently when confronted with real cases and when they have to take into account all the factors taken into account by sentencers.

Maybe the answer lies more in the question of what the public will **tolerate** than in applying opinion poll findings to the criminal justice system. According to Walker & Hough (1988:13):

"There is a difference between a policy of "fine-tuning" sentences so as to accord precisely with the responses to survey questions given by (not very knowledgeable) respondents, and a policy of taking account of what the public will tolerate."

Another function of the criminal justice system should be to educate people: Ashworth and Hough (1996:786) mention that: "If the source of falling public confidence lies in lack of knowledge and understanding, the obvious corrective policy is to explain and to educate, rather than to adapt sentencing policy to fit a flawed

conception of public opinion." "We think it feasible, within limits, to educate those who shape public opinion. Newspaper and television journalists, for example, responded well to the initiatives in the 1980s intended to curb the reporting of crime in ways that needlessly fuelled fear of crime. A similar initiative should now be mounted in relation to sentencing."

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# QUESTIONNAIRE

Survey number:

Name of fieldworker: \_\_\_\_\_

Student number: \_\_\_\_\_

Date completed: \_\_\_-05-1998      Area: Mankweng<sup>(1)</sup>

Gender of respondent: Male: <sup>(1)</sup>

Female: <sup>(2)</sup>

1

2

## INTRODUCTORY STATEMENT

Thobela,

Ke tswa Unibesithi ya Lebowa.

Ka nyakisiso ye, re botsisa batho ba Mankweng gore ba re botse ka maikutlo a bona ka basinyi le kotlo.

Tshedimoseto ye e bohlokwa go rena go dikgoro tsa tsheko tseo di swanetsego go otlala basinyi gape le go mmuso wa rena wo o swanetsego go dira molao.

Tseo o re botsago ka moka e tla ba sephiri.

Leina la gago ga go ka moo le ka amanywago le seo se utollwago ke thuto ye.

## PART 1

Dipotsisong tseo di latelago, o theeletsa setatamente, gomme wa kgetha go tseo di latelago:

- a) Ke dumela kudu
- b) Ke a dumela, e sego kudu
- c) Ga ke gane e bile ga ke dumele
- d) Ga ke dumele e sego kudu, goba
- e) Ke gana kudu

1. Ba bolai le bona ke batho ba swanetse go tshwarwa ka hlompfo.

Ke  
dumela  
kudu

(1)

Ke a  
dumela, e  
sego kudu

(2)

Ga ke gane  
e bile ga ke  
dumele

(3)

Ga ke dumele  
e sego kudu

(4)

Ke gana  
kudu

(5)

11

2. Dikatawane di swanetse go bewa kgo legong mengwaga yeo e ka bago masomepedi.

Ke  
dumela  
kudu

(5)

Ke a  
dumela, e  
sego kudu

(4)

Ga ke gane  
e bile ga ke  
dumele

(3)

Ga ke dumele  
e sego kudu

(2)

Ke gana  
kudu

(1)

12

3. Batho bao ba utswago ka baka la tlala ga ba swanela go otlelwa seo.

Ke  
dumela  
kudu

(1)

Ke a  
dumela, e  
sego kudu

(2)

Ga ke gane  
e bile ga ke  
dumele

(3)

Ga ke dumele  
e sego kudu

(4)

Ke gana  
kudu

(5)

13

4. Kgoao tsa tsheko nageng ya rena e fa basinyi kotlo ye tlase.

Ke  
dumela  
kudu

(5)

Ke a  
dumela, e  
sego kudu

(4)

Ga ke gane  
e bile ga ke  
dumele

(3)

Ga ke dumele  
e sego kudu

(2)

Ke gana  
kudu

(1)

14

**5. Go lokile go swarela le go thusa basinyi ntle le go ba otl.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (1)	<input type="text"/> (2)	<input type="text"/> (3)	<input type="text"/> (4)	<input type="text"/> (5)	15 <input type="text"/>

**6. Bao ba swarago bana bosaedi ke diphoofolo, kgoro ga tsheko e swanetse go ba tshwara bjalo ba diphoofolo.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (1)	<input type="text"/> (2)	<input type="text"/> (3)	<input type="text"/> (4)	<input type="text"/> (5)	16 <input type="text"/>

**7. Mosomo wa kgolego e swanetse go ba go fetola mosinyi e sego go mo otl.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (5)	<input type="text"/> (4)	<input type="text"/> (3)	<input type="text"/> (2)	<input type="text"/> (1)	17 <input type="text"/>

**8. Kotlo ya lehu e swanetse go buswa gape.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (5)	<input type="text"/> (4)	<input type="text"/> (3)	<input type="text"/> (2)	<input type="text"/> (1)	18 <input type="text"/>

**9. Dikotlo tseo di fiwago ke kgoro tsa tsheko di lekanetse.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (1)	<input type="text"/> (2)	<input type="text"/> (3)	<input type="text"/> (4)	<input type="text"/> (5)	19 <input type="text"/>

**10. Barutisi ba swanetse go dumelelwa go otl bana bao ba se nago maitshwaro.**

Ke dumela kudu	Ke a dumela, e sego kudu	Ga ke gane e bile ga ke dumele	Ga ke dumele e sego kudu	Ke gana kudu	
<input type="text"/> (5)	<input type="text"/> (4)	<input type="text"/> (3)	<input type="text"/> (2)	<input type="text"/> (1)	20 <input type="text"/>

TOTALPUN

<input type="text"/>	<input type="text"/>
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## PART 2

Biale re nyaka gore o gosole o le magisterata yoo a swatsego go fa kotlo go basinyi ba ba latelago bao ba setsego ba bonwe molato.

Gape o tsee gore kyolego ke kotlo e le nnosi yeo e hwetsagalago.

Bjale ke wena o swanetsego go fa gore ke dibeke, dikgwedi goba mengwaga ye mekae ya kgolego yeo o ka efago ge o le magisterata.

### MOLATO WA PELE : MAPHODISA A MABEDI A BONWA MOLATO WA ROMENETSA.

Maphodisa a mabedi, Seresanta Alfred Kgolobe wa mengwaga e 27 le David Maloke wa mengwaga e 26 ba bonwe molato wa bomenetsa ke kgoro tsheko ya magisterata wa Groblersdal.

Bobedi ba ikopantse le mogononelwa ka molato wa go utswa trektere, ba mo kgopela gore a ba lefe "Ten thousand rands," gore ba timeletse molato. Mogononelwa o ile a ikopanya le lefapha la maphodisa la bomenetsa. Maphodisa ao a mabedi a ile a swarwa ge ba be ba mmogela tsheletse go tswa go mo gononelwa.

Go itshireletsa, maphodisa a a mabedi a ile a re ga a swanelwa ke kotlo e kgolo, ka gore bobedi bo na le basadi le bana bao ba swanetsego go ba hlokomela.

#### 11. Naa ke efe ya dikotlo tse di latelago yeo e swanetsego lephodisa leo?

Ga go kgolego  (0) 15 years  (3)

5 years  (1) 20 years  (4)

10 years  (2)

22

## MOLATO WA BORARO: MOLATO WA MONNA WA MONA

Monna o bonwe molato wa polao kgorong ya tshenko ya mageseterata ya Polokwane.

Morena Johannes Maponyane wa mengwaga e 41 ge a e tla gae ka go se lebelelwe go tswa Gauteng, o hwetsa mosadi wa gagwe a le mapaing le moagisane.

Morena Maponyane o ipone molato wa polao, a re o ile a ikemisetsa go bolaya monna yoo ka ge a mo hweditse malaong a gagwe.

Monna yoo o bile le dintho hlogong, ge Morena Maponyane a be a motula ka letswele, o hlokoletse sepetlele ka morago nyana ka baka la dintho tseo.

15. Ke efe ya dikotlo tse di latelago yeo e swanetsego monna yoo?

A se swarwe  (0)

3 years  (3)

1 year  (1)

4 years  (4)

26

2 years  (2)

16. E fa lebaka le tee leo le dirilego gore o kgethe kotlo yeo:

27

## MOLATO WA BONE: MMAGO NGWANA GAUTENG O BONWE MOLATO WA GO SWARA NGWANA BOSAEI

Ngwana wa mosetsana wa kgwedi tse 18 le ragolwana ba gagwe ba ba bedi ba ile ba iswa lefelo la polokelo ka morago ga ge ba be ba bethwa la go siisa ke mmago bona nako e telele.

Go ya ka ngaka yeo e bahlahlo bilego, bana ba, ba be ba sa je gabotse. Mosetsanyana yo, o be a na le diso tsa maleiri ka morago ka moka, le megogoma mo diropeng. Basimane ba babedi ba be ba na le megogoma mmele ka moka. Ba be bethilwe ka patlana ya go raloka kerikhethe le mpa kubu.

Kgorong ya tshenko mmago bona o kgopetse tshwarelo go seo a ba dirilego. Ka ge a be a se na tshetele go ba hlokomela, le monna wa gagwe a mo tlogetse.

17. Ke efe ya dikotlo tse di latelago yeo e swanetsego mosadi yoo?

- A se swarwe  (0) 15 years  (3)  
5 years  (1) 20 years  (4) 28   
10 years  (2)

18. E fa lebaka le tee leo le dirilego gore o kgethe kotlo yeo:

29

**MOLATO WA BOHLANO: MOLATO WA FOROMANE WA GO NYAKA THOBALANO**

Mosadi wa go tswa Tzaneen, Mohumagadi Lettie Motjale wa mengwaga e 28 o ile a makala kudu go hwetsa gore foromane wa facthiring ya diaparo o be a nyaka go mo fa mosomo, fela ge go ka ba le thobalano pele.

Morena Moses Maziba, wa mengwaga e 38 o ipone molato ka molato wa thobalano ya go se be ya molao kgorong ya tsheko ya magisterata wa Tzaneen. Morena Maziba ke molekani, gape ntate wa bana ba bane.

19. Ke efe ya dikotlo tse di latelago yeo e swanetsego foromane yoo?

- A se swarwe  (0) 3 years  (3)  
1 year  (1) 4 years  (4) 30   
2 years  (2)

20. E fa lebaka le tee leo le dirilego gore o kgethe kotlo yeo:

31

**MOLATO WA BOSELELA: RAMATSWELE WA KGALE O ROBA MOLWANTSHI WA GAGWE MOHLAGARE**

Go robega mohlagare e bile poelo ya go leka go lwa ka ntle ga shebene ya Seshego. Monna yoo a lwesitsego Morena Moses Mamabolo wa mengwaga e 30 o be a sa tsebe gore Moses e be e le ramatswele wa boima fefo.

Mamabolo o ipone molato ka molato wa go hlola kgobalo - o boditse kgoro gore, o gopotse gore monna yoo o be a tseba gore ke yena ramtswele.

### PART 3

Go ka lebogega ge o ka re fa tshedimosetso yeo e latelage ka ga wena:

25. O na le mengwaga e mekae? \_\_\_\_\_ 3
26. Naa ke thuto e fe ya godimo yeo o nago le yona? \_\_\_\_\_ 4
27. Naa yo mongwe le yo mongwe yoo a dulago le wena ka lapeng o gola bokae ge le kopana? R \_\_\_\_\_ 5
28. Naa o ile wa ba motswa sehlabelo wa bosinyi mengwaga e mebedi ya go feta? \_\_\_\_\_ 6
29. Ga karabo mo potsisong ya go feta ele "ee," ke ga kae moo o bilego motswasehabelo \_\_\_\_\_ 7
- 30 (a). Ge karabo mo potsisong ya "28," e le ee naa o bile motswa sehlabelo wa mhuta o fe wa bosinyi \_\_\_\_\_ 8
- 30 (b). Ge karabo mo potsisong ya "28," e le ee naa ke o bile motswa sehlabelo wa mhuta o fe wa bosinyi \_\_\_\_\_ 9
- 30 (c). Ge karabo mo potsisong ya "28," e le ee naa ke o bile motswa sehlabelo wa mhuta o fe wa bosinyi \_\_\_\_\_ 10

# QUESTIONNAIRE

Name of fieldworker: \_\_\_\_\_

Student number: \_\_\_\_\_

Date completed: \_\_\_-05-1998

Area: Mankweng   
Makgwareng   
Tholongwe

Gender of respondent: Male:   
Female:

## INTRODUCTORY STATEMENT

Good morning/afternoon/evening,

I am from the University of the North. In our research, we ask the people of Mankweng to tell us how they feel about criminals and punishment.

This information is important to us, to the courts that have to sentence offenders and to the Government who has to make laws.

Everything you tell us will be strictly confidential. Your name will be in no way connected to the findings of this important study.

---

## PART 1

At the following questions, please listen to the statements CAREFULLY and then indicate whether you:

- a) Agree strongly;
- b) Agree, but not strongly;
- c) Do not agree or disagree;
- d) Disagree, but not strongly; or
- e) Disagree strongly.

1. **Even murderers are human beings and should be treated with dignity and respect**

- a) Agree strongly  (1)
- b) Agree, but not strongly  (2)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (4)
- e) Disagree strongly  (5)

2. **All rapists should be put in prison for at least twenty years**

- a) Agree strongly  (5)
- b) Agree, but not strongly  (4)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (2)
- e) Disagree strongly  (1)

3. **People who steal because they are hungry should not be punished for it**

- a) Agree strongly  (1)
- b) Agree, but not strongly  (2)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (4)
- e) Disagree strongly  (5)

4. **Courts in our country give too little punishment to criminals**

- a) Agree strongly  (5)
- b) Agree, but not strongly  (4)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (2)
- e) Disagree strongly  (1)

5. **It is better to forgive and help criminals than just to punish them**

- a) Agree strongly  (1)
- b) Agree, but not strongly  (2)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (4)
- e) Disagree strongly  (5)

6. **Child molesters are animals and should be treated like animals by the courts**

- a) Agree strongly  (5)
- b) Agree, but not strongly  (4)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (2)
- e) Disagree strongly  (1)

7. **The main purpose of a prison should be to rehabilitate an offender, not to punish him**

- a) Agree strongly  (1)
- b) Agree, but not strongly  (2)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (4)
- e) Disagree strongly  (5)

**8. The death sentence should be re-introduced**

- a) Agree strongly  (5)
- b) Agree, but not strongly  (4)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (2)
- e) Disagree strongly  (1)

**9. Sentences laid down in our courts are severe enough**

- a) Agree strongly  (1)
- b) Agree, but not strongly  (2)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (4)
- e) Disagree strongly  (5)

**10. Schoolteachers should be allowed to whip disobedient schoolchildren**

- a) Agree strongly  (5)
- b) Agree, but not strongly  (4)
- c) Don't agree or disagree  (3)
- d) Disagree, but not strongly  (2)
- e) Disagree strongly  (1)

## PART 2

Now, we want you to imagine yourself to be a magistrate who has to sentence the following offenders who have already been found guilty. Also imagine yourself that imprisonment was the only type of punishment that was available.

It is therefore expected of you to say how many weeks, months or years imprisonment you would lay down if you were the magistrate.

**CASE 1: TWO POLICEMEN CONVICTED OF FRAUD**

2 policemen, Sergeants Alfred Kgolabe (27) and David Moloke (26), were found guilty on charges of corruption by the Groblersdal Magistrates Court.

They allegedly contacted a suspect who was investigated for the theft of a tractor and asked him R10 000 in exchange for the dossier of the case. The suspect then contacted the Anti-corruption unit of the Police and the two policemen were caught in the act when they received the money for the dossier.

For their defense the two policemen said that they should not be punished too severely because they both had wives and children to take care of.

**11. Which of the following do you think would be a suitable punishment for the policemen:**

No imprisonment  (1)

5 years  (2)

10 years  (3)

15 years  (4)

20 years  (5)

**12. Give one reason why you would give this punishment:**

---

**CASE 2: THE CASE OF THE HUNGRY HUSBAND**

Gossiping with her neighbours all day ended in violence for a housewife in Mankweng when her husband came home to find the house dirty and no meal ready for him.

"She had all day to get me a meal ready and clean the place up a bit," said Dickson Mhlongo (31), who pleaded guilty to assaulting his wife.

"It wasn't the first time, and I just lashed out."

Mrs. Mhlongo sustained a cut lip, requiring a stitch.

13. Which of the following would be a suitable sentence for the husband?

No imprisonment  (1)

1 week  (2)

2 weeks  (3)

3 weeks  (4)

4 weeks  (5)

14. Give one reason why you would choose this punishment:

---

CASE 3: THE CASE OF THE JEALOUS HUSBAND

**A man was convicted yesterday of murder in the Pietersburg Magistrates Court.**

**When Mr. Joseph Maponyane (41) came home unexpectedly from his job in Johannesburg, he found his wife in bed with his neighbour. Mr. Maponyane pleaded guilty on a charge of murder and said that he intended to kill the man when he found him in his bed.**

**The victim sustained severe blows to his head when Mr. Maponyane hit him with his fists. He later died in hospital because of his injuries.**

15. Which of the following would be a suitable sentence for the husband?

No imprisonment  (1)

1 year  (2)

2 years  (3)

3 years  (4)

4 years  (5)

16. Give one reason why you would choose this punishment:

---

CASE 4: MOTHER FOUND GUILTY OF CHILD ASSAULT

A baby girl of 18 months and her two young brothers were taken to a Place of Safety after they have been severely assaulted by their mother over a long period of time.

According to the doctor who had examined them, the children were underfed. The little girl had severe nappy rash all over her buttocks and bruises on her thighs whilst the two boys' bodies were covered in bruises and lesions. They were allegedly hit with a cricket bat and a sjambok.

The mother said in court that she was very sorry for what she had done, but that she had no money to look after the children as her husband had left her.

**17. How many years imprisonment would you lay down for the mother?**

No imprisonment  (1)

5 years  (2)

10 years  (3)

15 years  (4)

20 years  (5)

**18. Give one reason why you would give this punishment:**

CASE 5: SEX BEFORE WORK

**A woman from Tzaneen, Mrs. Lettie Motjale (28), was shocked to discover that a foreman at a clothes factory was willing to give her a job, but on condition that she first had sex with him.**

**Mr. Moses Maziba (38) pleaded guilty on a charge of sexual harassment in the Tzaneen court. Mr. Maziba is a husband and a father of four children.**

2 years  (3)

3 years  (4)

4 years  (5)

**20. Give one reason why you would give this punishment:**

CASE 6: EX-BOXER BREAKS CHALLENGER'S JAW

A broken jaw was the result of a challenge to a fight outside a shebeen in Seshego. But the man who challenged Mr Moses Mamabolo (30), did not know he had been a welterweight boxer.

Mamabolo pleaded guilty to a charge of causing bodily harm. He told the court he thought the other man knew he was a boxer.

No imprisonment  (1)

1 week  (2)

2 weeks  (3)

3 weeks  (4)

4 weeks  (5)

22. Give one reason why you would lay down this punishment:

---

CASE 7: HOAX POLICEMAN HIJACKS MOTOR VEHICLE

A young man (19) was convicted of hijacking a truck last year in July.

A driver of a large company was robbed of his truck after he was ordered to stop by a man who was dressed like a policeman. The policeman stood at the side of the road without a police car. The man aimed a gun at Mr Klaas Motjale (46) whilst four other men appeared out of the bushes.

Mr Motjale was forced to climb into the back of the truck and was released fifty kilometers further after he was forced to take off his clothes. The robbers, of whom only the offender could be caught, got away with sweets and cigarettes to the value of a hundred thousand rands.

23. How many years imprisonment would you lay down for the false policeman?

No imprisonment  (1)

1 year  (2)

2 years  (3)

3 years  (4)

4 years  (5)

24. Give one reason why you would lay down this punishment:

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**PART 3**

It would be appreciated if you could also provide us with the following information about yourself

**25. How old are you?**

Under 20  (1)

20-24  (2)

25-29  (3)

30-34  (4)

35-39  (5)

40-44  (6)

45-49  (7)

50-54  (8)

55-59  (9)

Sixty years and older  (10)

**26. What is the highest qualification that you've obtained?**

No schooling  (1)

Grades 1-5  (2)

Grade 6  (3)

Grade 7  (4)

Grade 8  (5)

Grade 9  (6)

Grade 10  (7)

Grade 11  (8)

Matric  (9)

Diploma with st9 or lower  (10)

Matric with diploma  (11)

Degree  (12)

**27. How much money do everybody of your family living in this house earn together per month?**

Less than R500  (1)

R500-R999  (2)

R1000-R1499  (3)

R1500-R1999  (4)

R2000-R2499  (5)

R2500-R2999  (6)

R3000-R3499  (7)

R3500-R3999  (8)

R4000-R4499  (9)

R4500-R4999  (10)

R5000+  (11)

**28. Were you a victim of crime during the last two years?**

Yes  (1)

No  (2)

Don't know/Don't understand the question  (3)

**29. If the answer to the previous question was "yes," how many times were you a victim?**

Once  (1)

Twice  (2)

Three times  (3)

More than three times  (4)

Don't know/Don't understand the question  (5)

**30 (a). If the answer to question 28 was "yes," what type of crime were you a victim of? (crime 1)**

Was not a victim  (1)

Assault  (2)

Robbery  (3)

Theft  (4)

Rape  (5)

Motor vehicle theft  (6)

House breaking  (7)

Other  (8)

**30 (b). If the answer to question 28 was "yes," what type of crime were you a victim of? (crime 2)**

Was not a victim  (1)

Assault  (2)

Robbery  (3)

Theft  (4)

Rape  (5)

Motor vehicle theft  (6)

House breaking  (7)

Other  (8)

**30 (c). If the answer to question 28 was "yes," what type of crime were you a victim of? (crime 3)**

Was not a victim  (1)

Assault  (2)

Robbery  (3)

Theft  (4)

Rape  (5)

Motor vehicle theft  (6)

House breaking  (7)

Other  (8)





# RURAL COUNCIL MANKWENG

CENTRAL DISTRICT

NORTHERN PROVINCE

## LEGEND :

### BOUNDARIES

- — — — — INTERNATIONAL
- — — — — DISTRICT
- — — — — FORUM
- — — — — FARM
- — — — — FORMER RLC BOUNDARIES
- — — — — WARD BOUNDARIES

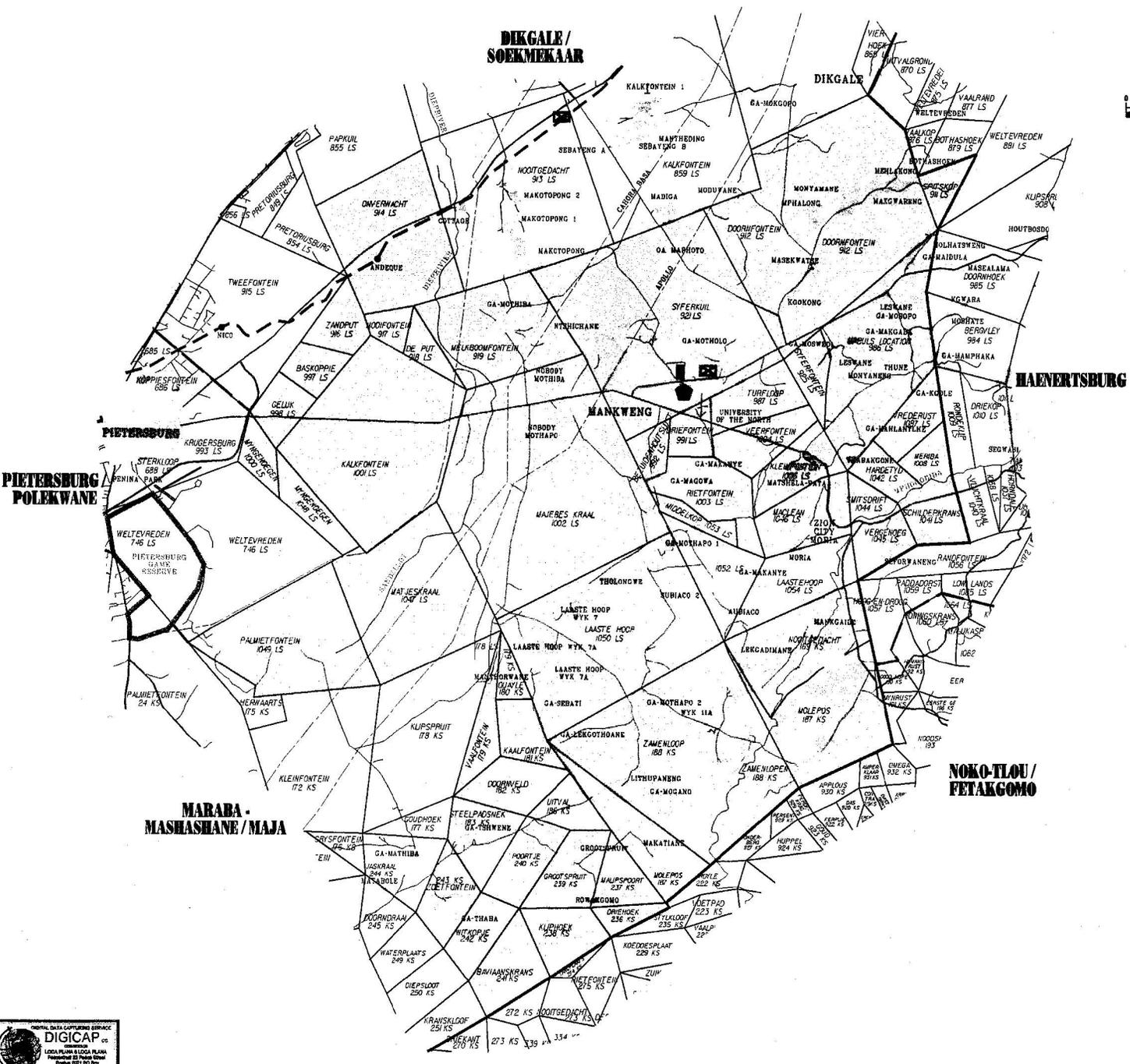
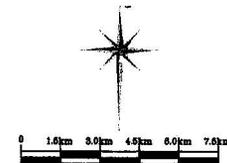
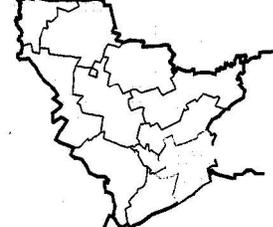
### INFRASTRUCTURE

- — — — — RAILWAY
- — — — — MAIN ROAD
- — — — — MINOR ROAD
- — — — — POWER LINE
- — — — — AIRSTRIP - AIRFIELD

### OTHER

- PERENNIAL RIVER
- NATURE RESERVE
- URBAN COUNCIL
- RURAL COUNCIL
- CLINIC
- HOSPITAL
- POLICE STATION
- POST OFFICE

## LOCALITY PLAN



# ANNEXURE D: ORIGINAL NEWSPAPER ARTICLES USED IN COMPILING CASES

Beeld Bladsy 14 ★

16/01/98

# Potch-egpaar in hof ná 'erge aanranding'

## 3 kinders glo vuil, oortrek met wonde

Lieze du Preez

Potchefstroom. – 'n Babameisie van agttien maande en haar twee jong boeties is na 'n plek van veiligheid gebring nadat hulle na bewering 'n tyd lank genadeloos deur hul ouers aangerand is.

Die kinders is glo onder meer met 'n krieketkolf geslaan omdat hulle "stout" was. Hulle het ondervoed en gehawend daar uitgesien toe hulle van hul ouers af wegge- neem is, word beweer.

Die polisie se kinderbeskermingseenheid is Saterdag gebel deur iemand wat glo gesien het hoe die twee boeties, onderskeidelik drie en vyf jaar oud, dae lank net in hul onderbroekies in die stad se nywerheidsgebied rondgedwaal het.

Die getuie, wat nie geïdentifiseer is nie, het glo ook gesien hoe die seuntjies se ma-

hulle "aan hul ore" huis toe sleep.

Die polisie het die gesin in 'n huis in die agterplaas van 'n sakeperseel opgespoor en die kinders, wat na bewering vuil en verwaarloos was, uit hul ouers se sorg verwyder.

Die ouers, albei 26 jaar oud, het Maandag in die landdroshof in Potchefstroom verskyn op aanklagte van kindermishandeling, aanranding met die opset om ernstig te beseer en versuim om hul kinders van mediese behandeling te voorsien.

Die distriksgeneesheer wat die kinders ondersoek het, het dit bestempel as een van die ergste gevalle van kindermishandeling wat hy tot nog toe in Potchefstroom gesien het.

Luidens mediese verslae was die kinders ondervoed en het die dogtertjie luteruitslag in die ergste graad aan haar geslagsdele en agterstewe gehad.

Sy het ook slaanmerke aan haar bobene gehad.

Die seuns se liggame was glo van die nek tot by die enkels oortrek met blou hale en kneuswonde.

Hulle is na bewering met 'n krieketkolf en 'n rottang geslaan, word beweer.

Een van die seuns het weens die beweerde langdurige mishandeling glo 'n sigbare fraktuur op sy laer rug.

Na verneem word, het die dogtertjie in Desember glo byna gesterf nadat sy ontwater het en net betyds behandeling daarvoor gekry het.

Ingevolge 'n bevel deur die kinderhof sal die kinders in die huis van veiligheid bly totdat geskikte pleegouers gevind word.

Die egpaar is op borgtog van R200 elk vrygelaat en moet weer op 30 Januarie in die hof verskyn en mag nie met die kinders in aanraking kom nie.

## Fop-verkeersbeampte kaap voertuig

Hartbeesfontein. – 'n Werknemer van 'n Klerksdorpse groothandelaar is eergister van sy aflewingsvoertuig beroof nadat hy bevel is om stil te hou deur 'n man wat hom as 'n verkeersbeampte voorgedoen het.

Die "verkeersbeampte" het sonder 'n patrollievoertuig langs die pad gestaan.

Die man het 'n vuurwapen op mnr. Klaas Motjale (46) en sy kollega gerig terwyl nog vier mans uit die bosse te voorskyn gekom het.

'n Verbyganger wat die gebeure gesien het, is ook aangehou en bedwags om saam met Motjale-hulle agter in die voertuig te klim. Hulle is 50 km ver-

der in die veld gelos nadat hulle hul klere moes uittrek en met kleefband vasgeweel is.

'n Motoris het die drie mans omstreeks eenuur op die pad tussen Colligny en Ventersdorp gekry.

Die rowers het ook met lekkergoed en sigarette ter waarde van R100 000 weggekom.

BEELD 22/01/98 p. 2

BEELD 2/2/18  
**Twee van p. 9  
polisie in hof  
ná klag oor  
korrupsie**

Twee polsiemanne, sers. Alfred Moloko (29) en konst. David Kgolale (26), het Vrydag in die hof in Groblersdal verskyn op aanklagte van korrupsie.

Die aanklagte spruit uit bewerings wat die polisie ondersoek dat twee mans in Desember 'n man, wie se naam nie bekend gemaak is nie, daarvan beskuldig het dat hy in besit is van 'n gesteelde trekker.

Na bewering het die twee mans die klaer R10 000 gevra in ruil vir die dossier.

Hulle het glo daarop aangedring dat hy die volgende dag op 'n afgespreekte plek R3 000 aan hulle gee.

Die volgende dag het hulle na bewering nog R5 000 geëis wat die klaer in Januarie aan hulle moes gee.

Die klaer het in daardie stadium die teenkorrupsie-eenheid van die polisie van die voorvalle in kennis gestel.

Dié eenheid het toegeslaan toe die klaer die R5 000 aan die twee mans gegee het.

Beslag is gelê op die geld.

## ADDENDUM E: EXAMPLES FROM WALKER & MARSH (1986) USED IN COMPILING CASES

### The Case of the Hungry Husband

Gossiping with her neighbours all day ended in violence for a ~~Scottish~~ housewife in ~~Westville~~ when her husband came home to find the house dirty and no meal ready for him.

"She had all day to get me a meal ready and clean the place up a bit" said Bertram ~~Wilson~~ (24), who pleaded guilty to assaulting his wife. "It wasn't the first time, and I just lashed out". ~~Mrs. Wilson~~ sustained a cut lip, requiring a stitch.

### Ex-Boxer breaks Challenger's Jaw

A broken jaw was the result of a challenge to a fight outside a ~~Northtown~~ public house. But the man who challenged Robert ~~Brown~~ (30), did not know he had been a welterweight boxer. ~~Brown~~ pleaded guilty to causing actual bodily harm outside the Rose and Crown. He told the court he thought the other man knew he was a boxer.