Crime and Punishment: Public perceptions versus reality and the impact on sanctions for offenders

Bridgit Dean
Simon Fraser University

Appropriate responses to crime and offenders are integral to maintaining a functioning society. However, political systems across the globe appear to prefer a punishment-based approach to criminal offenders over other responses. While crime rates are declining in many countries, including Britain, the United States and Canada, the literature suggests that punishment-based approaches are neither the cause of this decline in crime rates, nor effective in reducing recidivism. Therefore, in attempting to explain their continued popularity, this paper weighs up the relative merits of incarceration and alternatives to punishment and touches on the 'punishment as an appropriate response' view. It then focuses on examining the gaps that exist between reality and perceptions regarding crime rates, appropriate sanctions for offenders and the risks posed by offenders generally, and mentally disordered and white collar offenders in particular. This examination shows that inaccurate, media-fuelled perceptions underlie the continued adherence to punishment-based approaches for offenders. In other words, these approaches are a reflection of public perceptions rather than reality.

In recent years many western democracies including Canada, the United Kingdom, and the United States have become increasingly punitive with respect to sanctions for criminal offenders. This has occurred against a back drop of falling crime rates and a strong body of evidence which suggests that punishment-based approaches are ineffective with respect to reducing both crime rates and recidivism (Andrews & Bonta, 2010; Farrell, 2013; Henggeler & Schoenwald, 2011; Ouinnet, 2002). Of course this situation could have arisen either because punishment-based approaches to offenders are still superior to other approaches, or as a result of the 'punishment as appropriate response' view. However, this paper suggests that a more fruitful line of inquiry concerns the gaps that exist between reality and perceptions regarding crime rates, appropriate sanctions for offenders and the risks posed by offenders generally, and mentally disordered and white collar offenders in particular. In fact it proposes that instead of being based on reality, punishment-based sanctions are a function of inaccurate, media-fuelled public perceptions.

In recent decades, crime rates have declined markedly in most Western democracies. For example, the Crime Survey for England and Wales for the period ending December 2013 estimated that there were 7.5 million crimes in England and Wales in the previous 12 months (Office for National Statistics, 2014). This represented a 15% drop compared with the previous year and was the lowest estimate since the survey began in 1981 (Office for National Statistics, 2014). Similar patterns have been observed in Canada. A report by Brennan and Dauvergne (2011) indicated that in 2010 police-reported crime in Canada as a whole reached its lowest level since the early 1970s, with crime rates and severity declining across most types of crime.

Despite this decline in crime rates,

punishment-based approaches to offending and the severity of punishments are increasing. For example, in Canada, Stephen Harper's government has introduced a raft of 'tough on crime' bills in recent years that have included measures such as tougher mandatory minimum sentences, the removal of pre-trial credit from sentence calculations, abolition of the "faint hope" clause for offenders sentenced to life, and much harsher penalties for youth offenders (Mallea, 2010). Similarly, the response to the August 2011 riots in Britain focused on punishing the rioters, rather than trying to ascertain and treat the underlying causes of the riots. What is more, in almost every offence category the sentences received by rioters were longer and harsher than those given to offenders who committed similar offences in non-riot situations (Sim, 2012).

While at first glance it may seem curious that legislators are introducing harsher criminal justice measures when crime rates are declining, there may be a simple explanation for this. Quite possibly, the severity of punishment was the central reason for the crime rate decline and therefore legislators persist with punishment-based approaches because it is the only way crime rates will be maintained at relatively low levels.

Admittedly, there is controversy about the causes of the fall in crime, though most researchers concede it probably has multiple causes (Blumstein & Rosenfeld, 2008; Farrell, 2013; Levitt, 2004). Fifteen possible explanations for the drop have been identified in the academic literature (Farrell, 2013). These include changing demographics, strong economies, high prison populations, the legalization of abortion, and improved security (Farrell, 2013). This means, of course, that it is impossible to state categorically why crime rates fell, though increased security that provided reduced opportunities for crime might satisfactorily explain the decline in some types of crime (Farrell, 2013). Still, it is possible to draw conclusions about the role played by high prison populations in the fall in crime rates.

The idea that a rising prison population was a major contributor to falling crime rates was first forwarded by researchers trying to pin-point the reasons for the decline in U.S. crime in the 1990s (Blumstein & Rosenfeld, 2008; Levitt, 2004), and it is still mentioned as a contributor in media reports on recent crime rate reduction in the United States and elsewhere (Travis, 2013; Wilson, 2011). However, a major problem with this explanation is that while the United States and the United Kingdom experienced rising imprisonment levels during the crime drop period, other countries in which crime declined had either stable or falling prison populations (Farrell, 2013). A case in point is Canada. As Ouimet (2002) observed, between 1991 and 1999 Canada and the United States recorded similar crime rate reductions, yet Canada's already lower incarceration rate declined by 3%. A similar trend was also observed in a number of European countries (Farrell, 2013). Thus, increased incarceration certainly does not explain why crime declined in countries like Canada.

In fact, a rising prison population does not even provide an adequate explanation for the crime rate decline in the United States. One reason for this opinion is that the incarceration rate tripled in the United States between 1973 and 1991 but the crime rate increased, rather than decreased, during this period (Farrell, 2010). Yet another factor challenging the increased incarceration explanation is that in the 1990s Texas increased its prison population markedly and by 2000 it had an incarceration rate second only to Louisiana's, but its crime drop for the 1995-1998 period was only 5% (Ouimet, 2002). By contrast, California and New York with lower incarceration rates had crime rate falls of 23% and 21% respectively (Ouimet, 2002). Finally, the incarceration explanation is undermined by research that shows imprisonment does not have the effects claimed by its proponents. According

to Levitt (2004), increased imprisonment led to reduced crime via two mechanisms: the incapacitation effect and deterrence. The incapacitation effect refers to the fact that when an offender is imprisoned he/she is removed from the streets and is unable to commit any crimes (Levitt, 2004). Deterrence, on the other hand, occurs when someone refrains from committing a crime as a result of the increased threat of punishment (Levitt, 2004). However, as Andrews and Bonta (2010) demonstrate, punitive approaches to punishment such as mandatory prison sentences, lengthy incarceration, scared straight programs, and boot camps, might temporarily remove offenders from the streets but they do not reduce recidivism or deter potential criminals. Instead, the greatest contribution of increasingly punitive approaches to society may be the increased incarceration costs and deteriorating prison conditions. Additionally, Henggeler and Schoenwald (2011) in their research on juvenile offenders and the effectiveness of interventions, indicate that methods such as incarceration may actually have a synergistic effect and increase offending among some populations. This finding is not really surprising. After all, adult and juvenile correction establishments group antisocial individuals with common histories together. This in turn can lead to things like criminal networks being created and expanded, inmates increasing their knowledge about specific crimes, and antisocial behaviour being reinforced (Bayer, Hjalmarsson & Pozen, 2009; Henggeler & Schoenwald, 2011).

Of course, even though punishment-based approaches are not effective at reducing recidivism and deterring crime, one could argue that they still might be superior in these respects to less punitive measures. This is not the case, however. Despite the fact that less punitive approaches are not automatically superior to "tough on crime" measures (Henggler & Schoenwald, 2011), some very effective alternatives to punitive approaches have been identified for both juvenile and adult offenders. With respect to juvenile offenders, the Blueprints Initiative (Muller & Mihalic, 1999) used four criteria, including the stipulations that a program had to have a statistically significant deterrent effect and the deterrent effect had to last for at least a year, to isolate programs that could help reduce chronic and violent antisocial behaviour. They determined that three programs, namely, functional family therapy, multisystemic therapy, and multidimensional foster care, met their effectiveness criteria (Henggeler & Schoenwald, 2011; Muller & Mihalic, 1999). Each of these programs has a slightly different focus but their success is based on some common features. They all target key risk factors for offending, are behavioural in nature, are individualized to the strengths and weaknesses of the offender, and are mainly designed for high-risk offenders (Henggeler & Schoenwald, 2011). They are also designed to be community-based, though as Hennggeler and Schoenwald (2011) point out, there have been suggestions that these treatment programs can be successfully used in institutional environments as well. Thus, effective alternatives to punishment for juvenile offenders are available.

Other alternatives to punishment approaches, such as some drug treatments (Mitchell, Wilson & MacKenzie, 2012), cognitive behavioural therapy (CBT; Landenberger & Lipsey, 2005; Lipsey, Landenberger & Wilson, 2007), and restorative justice (Latimer, Dowden & Muise, 2005; Public Safety Canada, 2003), have also been shown to be effective at reducing recidivism among adult offender samples. CBT, which seeks to change offenders' distorted cognitions or 'criminal thinking' including self-justification, displacement of blame, and impulsivity, seems to be particularly successful in this regard (Lipsey, Landenberger & Wilson, 2007). For example, Lipsey, Landenberger & Wilson's (2007) meta-analysis of 58 CBT studies found that CBT decreased the chance of

offenders recidivating within 12 months of receiving treatment by an average of 25%. This finding was also consistent with previous meta-analyses (Landenberger & Lipsey, 2005). CBT is not only very effective at reducing recidivism but it can also be adapted to a range of adult and juvenile offenders, delivered in both community and institutional settings, and operate as both a stand-alone program or as part of a multi-pronged approach (Lipsey, Landenberger & Wilson, 2007). Thus, clearly a range of alternatives to punishment approaches exist that can reliably reduce offender recidivism.

Finally, it is clear that crime rates do not burgeon when less harsh measures are introduced. In fact, the evidence suggests quite the opposite. In 2003 the punitive *Young Offenders Act (YOA),* which resulted in Canada having one of the highest youth incarceration rates in the West, was replaced by the *Youth Criminal Justice Act (YCJA;* Mallea, 2010)*.* This Act was designed to divert youth accused of non-violent and minor offences away from prison via the use of diversionary and extra-judicial measures. It was successful in this regard with the average number of youth in detention following conviction falling 42% between 2003 and 2009. More importantly, although the number of youth committing offences remained stable between 1999 and 2009, the total number of crimes committed by youth declined (Mallea, 2010). In other words, the introduction of a less punitive approach to youth justice was associated with lower crime rates. Thus, the evidence clearly negates the idea that punishment approaches to offenders are favoured because they have been shown to be superior to less punitive measures with respect to deterring crime and reducing recidivism.

Another possible contributor to the continued popularity of punishment approaches to offenders is that many people feel that punishment is the appropriate response and is proportionate to the crime committed. This

outlook suggests that punishment might be directed at regaining a moral balance in society, or used to prevent further harm from being committed (Carlsmith, Darley, & Robinson, 2002). While it is acknowledged that this explanation may well have some merit, it will be left to others to evaluate its importance. This is because a more fruitful line of inquiry seems to be offered by the perceptions that exist concerning various aspects of the criminal justice system in many western democracies. Consequently, the gaps between public perceptions and realities, the effects of these gaps, and the forces shaping them will be explored with respect to crime rates and some key offender groups, most notably mentally disordered and white collar criminals.

There is definitely a gap between public perceptions and reality with respect to crime rates. Duffy, Wake, Burrows, and Bremner (2008) discussed this phenomenon in the United Kingdom, noting that while crime had declined quite drastically over the decade prior to their publication, the public still reported feeling at risk and felt that crime rates were increasing. Similarly, police reported crime might have reached its lowest level since the 1970s in 2010 in Canada (Brennan & Dauvergne, 2011), but the 2009 General Social Survey found that when respondents were asked about the level of crime in their neighbourhoods compared with five years earlier 62%, believed it had remained the same, 26% believed it had increased and only 6% claimed it had declined (Brennan, 2011). Fitzgerald's (2008) study on the fear of crime in Canadian neighbourhoods also noted that perceptions of crime and disorder did not decline in concert with the crime rate, thus suggesting that perceptions of crime and disorder, rather than crime rates themselves, were influential in determining fear of crime levels.

It is significant that a majority of people perceived crime rates to be either static or increasing and that a link exists between fear of crime levels and perceptions. This is because

there is a strong body of evidence suggesting that people who possess a fear of crime or believe that crime is increasing are those who are most supportive of punitive sanctions for offenders. For example, an early study by Sprott and Doob (1997) that analyzed data from the Canadian General Social Survey program indicated that as the level of fear of crime increased so did the proportion of people who thought sentences were too lenient. Moreover, this was the case even when they controlling factors like age, gender and victimization status (Sprott & Doob, 1997). More recent studies, such as that conducted by Costelloe, Chirios and Gertz (2009) in Florida, have confirmed that fear of crime is a major predictor of punitive attitudes. On the other hand, several Australian studies such as those by Spiranovic, Roberts, and Indermaur (2012) and Roberts and Indermaur (2007) have emphasized the role played by perceptions of increased crime rates in predicting punitiveness. For example, although the Spiranovic et al (2012) study found that higher scores for fear of crime were also associated with higher scores for punitiveness, it was perceptions of crime levels that was the strongest predictor of punitiveness followed by education, the influence of commercial/tabloid media, and fear of crime.

Obviously, public perceptions about increasing crime rates and fear of crime would certainly have resulted in support for punitive sanctions for offenders, though as the Spiranovic et al. (2012) study showed they were not the sole factors involved in this. Nevertheless, it seems that a strong link also exists between these two factors and media messages, another of the major predictors of punitive attitudes. This link is not surprising in view of the large number of crime-based television programs and the media's love of sensationalism when it comes to crime and violence. A number of studies have examined this link. For example, Kort-Butler and Hartshorn (2011) suggest that how attitudes are influenced depends on what people are watching. They indicate that real life crime television resulted in greater fear of crime and beliefs that the crime rate was actually increasing, possibly because how it is portrayed results in the viewer estimating their own risk of victimization as being greater. In addition, they found that fictional programming does not influence fear but can play a role in an individual's support for more punitive treatment of violent offenders, such as support for the death penalty. The previously mentioned Spiranovic et al. (2012) study also found that individuals who reported commercial and tabloid media as their predominant news source had more punitive views. Similarly, Krause's (2014) survey experiment found that exposure to news reports of violent crime was related to a reduction of trust in criminal justice institutions, as well as an increase in support for punitive punishment approaches. For instance, participants in treatment group one, who were exposed to a news article about a murder as well as two news stories unrelated to crime, reported a much greater degree of victimization and more favourable attitudes to a pro-punishment politician than a control group just exposed to stories unrelated to crime (Krause, 2014). Of greater interest, however, is that this study is based in Guatemala, where there are high levels of violent crime. This means that while perceptions may actually be accurate in this circumstance, there is still a correlation between public perceptions of offenders and a push for punitive, rather than rehabilitative, approaches to them. However, it is important to remember that the exact nature of the relationships between perceptions, media influences and fear of crime is complicated and more research is necessary to establish how each of these factors condition or precede the others (Spiranovic, Roberts & Indermaur, 2012). Still, one cannot escape the conclusion that when perceptions of crime levels are distorted and portrayed dramatically, punitive attitudes are strongest (Spiranovic et al., 2012).

The idea that it is public perceptions that are reflected in support for harsher punishments in the criminal justice system is further strengthened by an examination of the gaps that exist between perceptions and reality with respect to the threat posed by an important segment of the offender population: mentally disordered offenders. The process of deinstitutionalization and a lack of community support for those with mental disorders have resulted in a greatly increased representation of this group in the offender population (Pogrebin & Poole, 1987). In fact, currently, there are greater numbers of individuals among the criminal justice population that have serious mental illness than in the general population (Pope, Smith, Wisdom, Easter, & Pollock, 2013). In the United States, half or more of all incarcerated offenders have mental health problems (Sarteschi, 2013).

Typically, people with mental disorders in general, and mentally disordered offenders in particular, are a highly stigmatized group. Andrewartha (2010) directly addresses this issue, indicating that as many as three quarters of the Australian population view individuals with mental disorders as both dangerous and violent. She also claims that one of the origins for this belief is media influences, such as crime dramas and news reports. Mental illness is not only frequently tied with crime within the media, but also the language used tends to give the viewer a biased perspective regarding mental illness, most typically one with negative connotations (Andrewartha, 2010). This view is supported by McKenna, Thom, and Simpson (2007), who suggest that the media is more likely to use sensationalized headlines and pictures and draw attention to the personal lives and details of offenders in homicides committed by individuals deemed not guilty by reason of insanity (NGRI), than those committed by individuals without mental illness. The probable effect of this is that these events are made more salient in the minds of the reader and thus reinforce perceptions that

people with mental illness are violent (McKenna et al., 2007). The idea that media messages can contribute to inaccurate attitudes about the relationship between violence and mental illness is also reinforced by a recent experimental study, which examined the effects of news stories about mass shootings on attitudes towards people with serious mental illnesses, such as schizophrenia and bipolar disorder (McGinty, Webster & Barry, 2013). It found that compared with the control group, respondents who read a news story about a mass shooting by a person with a serious mental illness reported less willingness to live near or work closely with a person with a serious mental illness and perceived them as being more dangerous (McGinty et al., 2013). Thus, many people perceive those who are mentally ill as violent and dangerous; perceptions reinforced by the media.

As with perceptions relating to crime rates these particular perceptions do not match with reality. Admittedly, individuals with mental disorders have been found to exhibit levels of violence above those in the general population (Andrewartha, 2010; McGinty et al., 2013; McKenna et al., 2007). However, as Andrewartha (2010) points out this statistic needs to be put into context. When Corrigan and Cooper (2005) did this in a study which compared numbers of potentially violent individuals on the basis of gender, age and mental illness they found that the sample sizes of potentially violent youth and males were 115% and 299% larger than the group with mental illness respectively. Hazardous drinking is also a significantly better predictor of violence than psychosis (Andrewartha, 2010). Thus, the perception that everyone with a mental illness is violent and poses a risk to society is certainly a distorted one and does not accord with reality.

Arguably, mentally disordered offenders are those who could benefit most from replacing punishment-based approaches with treatment directed at their underlying issues. However, it

appears that one of the main barriers to this happening is the largely inaccurate public perceptions described above (Penner, Roesch, & Viljoen, 2011; Pope et al, 2013).

In fact, Andrewartha (2010) suggests that there is an indirect or circular relationship between perceptions and incarceration. As individuals do not seek or cannot access the treatment they need due to the stigma that surrounds mental illness in society, they are placed at greater risk of offending. Then those who do offend often receive longer sentences due to perceptions held about mentally disordered offenders both within and outside the criminal justice system (Andrewartha, 2010; Sarteschi, 2013). Finally, they generally do not receive the treatment and support they need when exiting the criminal justice system (Penner et al., 2011). This creates a perpetual pattern of recidivism, meaning that offenders with mental illness are continually seen as dangerous and face greater exclusion from mainstream society.

Although the evidence on mentally disordered individuals supports the idea that inaccurate public perceptions are strongly connected to the continued adherence to punishment-based approaches in the criminal justice system, a different picture might emerge from an examination of the changes that have occurred in perceptions of white-collar crime and its perpetrators. Despite the fact that white collar crime is highly detrimental to the functioning of society, until relatively recently it was viewed as being less of a problem than more personal types of crime and the public seems to have been indifferent to white collar criminals. One probable reason for this indifference is that the white-collar criminal does not match the general public's schema for what a typical criminal is like, this is possibly why they were not identified as being a serious risk. Demographically, white-collar offenders tend to be educated, well dressed, and gainfully employed, usually earning enough money that it

is unnecessary for them to obtain more through criminal activities (Bucy, Formby, Raspanti, & Rooney, 2008). This is in direct opposition to the schema created for a street criminal, who is usually viewed as being unemployed or of a lower socioeconomic status, and who generally engages in more direct one-on-one offences. Another part of the reason for this initial indifference to white collar crime appears to have been a lack of awareness of the problem (Dodge, Bosick, & Van Antwerp, 2013; Simpson, 2013).

Today the situation with respect to white-collar crime and its perpetrators is totally different. Of course, the dangers that white collar-crime poses to the functioning of society probably have not changed. What has changed is that recent high profile cases have brought white-collar crime to the forefront of public attention. As part of this increased awareness, public perceptions regarding white-collar criminals and their crimes have also altered. In addition, studies show that harsher punishment-based approaches that are comparable to those handed down to violent and personal offenders are now being advocated (Dodge et al., 2013; Holtfreter, Van Slyke, Bratton, & Gertz, 2008).

As a result of this shift in public opinion about white-collar crime, one would expect to see an increase in the severity of punishments given to offenders engaging in such activities. At the moment, though, one cannot say for certain that this is occurring. Holtfreter et al. (2008) suggest that while public perceptions have changed and people are calling for harsher penalties for white-collar criminals, government policies do not yet reflect this change. Brickley (2006) disagrees with this belief. She argues that perceptions that many white-collar criminals go free, particularly the more powerful individuals, are in fact misdirected. Furthermore, she uses examples such as the Enron case to demonstrate the severity of punishments awarded to white-collar criminals. Certainly, in this highly publicized example of fraudulent practices by a multibillion

dollar company, many individuals wanted severe punishments to be awarded, a view that was subsequently reflected by the courts. Still, the controversy about whether changed public perceptions are now reflected in government policies is relatively unimportant. This is because it does not alter the fact that while white-collar crime and its consequences for society remained constant through time, there were marked changes over time in public perceptions of its dangers and how it should be sanctioned.

Clearly, in most Western democracies public perceptions do not match reality with respect to crime rates, the effectiveness of various sanctioning options, and the nature of different types of offenders. More importantly this analysis suggests that media-induced public perceptions play a much more important role in shaping sanctioning practices than do 'hard' evidence. Without a marked change in these public perceptions it is also hard to envision countries like Canada and the United States making a concerted move towards reducing their prison populations and making rehabilitation for offenders the norm. This is because the handling of offenders is inextricably linked to politics, and politicians generally promote the majority views of the public in order to enhance their chances of election. Of course, changing public perceptions is not an easy task, though initiatives that reduce media stigmatization of mental illness and encourage the media to take an educative approach to criminal matters rather than promote an emotional response, should be supported. In addition, opportunities must be taken to educate both the public and politicians concerning the 'realities' of crime rates, the causes of their decline, and the less punitive criminal justice systems that exist in many Scandinavian countries (Lappi-Seppälä, 2007; 2012).

Even if changes in perceptions occur and this results in politicians deciding to implement less punitive sanctions for offenders, problems can still arise. The obvious one is that politicians will tend to opt for a 'one size fits all' option. However, as indicated above, this would be an abject failure. Consequently, more research is needed to delineate appropriate target groups for the various promising alternatives to punishment and establish 'best practice' for each one. Researchers also need to ensure that policy makers are lobbied about this research. Initiatives like the Blueprints Project (Muller & Mihalic, 1999) and the Campbell Corporation's Systematic Reviews (Lipsey, Landenberger & Wilson, 2007; Mitchell, Wilson & MacKenzie, 2012) are leading the way, but more needs to be done. In this way, a system might emerge that reflects realities rather than perceptions.

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