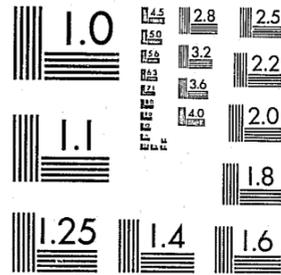


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**THE EFFECTS OF COMMUNITY SERVICE
ON THE ATTITUDES OF OFFENDERS**

Sveinn A. Thorvaldson, Ph.D.

82510

Research and Evaluation Unit
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A note to the general reader.....

This thesis has been reproduced in this form in the hope that it will be useful for planning purposes in certain areas of criminal justice. An academic thesis, however, is written for a specific audience, and some remarks to the administrator or general reader are appropriate.

The first four chapters, which deal mainly with the analysis of the aims of community service and postulate a general theory of reparative sanctions, may be of particular interest to those concerned with sentencing theory. The middle chapters (V, VI, and VII) are concerned with the methodology of the empirical part of the study and contain considerable detail. While this material should be of interest to researchers, others may wish to skim over it, reading only introductions or summaries. The empirical results are given in Chapters VIII, IX and X, and here again the general reader might get by with the chapter summaries and selected sections, along with the final chapter discussing the results and some of the implications of the theory.

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ACQUISITIONS

DISSERTATION ABSTRACT

Title: The effects of community service on the attitudes of offenders

Author: Sveinn Albert Thorvaldson, M.A.

The purposes of the study were: a) to determine the predominant aim of community service (CS), b) to justify its aim, c) to explore its significance for sentencing theory, and d) to test its effectiveness as a means of changing offenders' attitudes.

The traditional sentencing aims were first discussed and defined. The concept of reparation by offenders was also explored; it was concluded that its primary justifying aim as a criminal sanction was not the material benefit it afforded victims but the moral precepts - specifically the notion of justice - it might convey to offenders or to the public. This was called the 'reparative aim'. Current interpretations of CS were then closely examined. It was argued that it was predominantly reparative in aim, as defined, and gave support to the postulated definition. Several areas of recent social-psychological theory were then outlined to support the contention that 'doing justice', specifically by means of reparation, contributes to the maintenance of social control. The relationships between the postulated reparative aim and other sentencing aims were analysed, and the significance of CS for sentencing theory and some of its implications for sentencing practice were pointed out.

To test the effects of CS on offenders' attitudes, the attitudes of samples of offenders in Britain given CS (n=48), a fine (n=42), and probation (n=42) were compared. The possible influence of a number of extraneous variables was controlled by means of a quasi-experimental (cross-sectional) design and statistical procedure. The CS subjects were significantly more positive than the others on several measures of attitude toward the sentence, and tended to appreciate the moral principles their sentence represented. There was also evidence that they were more positive than the other subjects in attitudes to the court staff and procedure. The CS group differed significantly from the other groups, however, on only a few measures of broad social and moral attitudes.

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THE EFFECTS OF COMMUNITY SERVICE
ON THE ATTITUDES OF OFFENDERS

A thesis submitted for the degree of
Doctor of Philosophy
in the University of Cambridge

by
Sveinn Albert Thorvaldson

Clare Hall

1978

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* * * * *

Declaration: This dissertation is the result of my own work and includes nothing which is the outcome of work done in collaboration.

S. A. Thorvaldson

To my wife

ANNE HELEN BOTTWOOD

CHAPTER I: INTRODUCTION

Community Service (CS) was proposed by the Advisory Council on the Penal System in Britain as one of several non-custodial sentences for offenders aged 17 or over. The offender is required to perform, for a specified number of hours, unpaid work of a charitable or public service nature. He remains in the community and his freedom is not curtailed except to the degree that the doing of the work itself requires. In the preface to the report of the Council's sub-committee on non-custodial and semi-custodial penalties (Advisory Council on the Penal System, 1970), the Chairman of the Council, The Rt. Hon. Kenneth Younger, remarked as follows:¹

The Sub-Committee have referred in the introduction to their report to the need for additional alternatives to custodial sentences, and this requires no elaboration on my part. Indeed, it is inherent in the decision to ask the Council to undertake this inquiry that ways and means of keeping offenders out of prison should be further explored. However, efforts need to be directed, not merely towards keeping offenders out of prison, but towards persuading them to change their attitude toward society. It is this consideration which has led the Sub-Committee to the most imaginative and hopeful of all their proposals, namely that the criminal courts should be empowered to require offenders to carry out service to the community. The Council feel that this scheme, with its emphasis on the reformatory value of service in association with volunteers, is likely to be a promising form of new non-custodial penalty and that its effectiveness is likely to be all the greater because it involves the positive co-operation of the offender.

-
1. The Advisory Council will often be referred to simply as the Council, and the sub-committee as the Wootton Committee after its chairwoman, the Baroness Wootton of Abinger. The report of the Council will be referred to as the Wootton Report.

Close examination of this short statement shows that it says a rather large number of things: a) While it acknowledges the goal of simply keeping offenders out of prison, it asserts a positive aim - the reformation of offenders. b) It specifies what the measure of the reformatory effect is to be - attitude change. c) It specifies what sort of attitudes are to be changed - 'attitudes to society'. d) It also gives some indication of the type of attitude change technique to be employed; CS is not to intimidate or provide guidance or support but rather to make an appeal for the co-operation of the offender, to appeal to his altruistic feelings, and to 'persuade' him. Finally, e) it suggests at least some of the sociological and psychological factors which are regarded as supporting the predictions about the effect of the sentence - the giving of service and the association with volunteers. There is, moreover, a strong hint of enthusiasm - CS is described as 'the most imaginative and hopeful' of the Committee's proposals, a 'positive' and 'promising new form' of sentence.

While perhaps acceptable in the preface of a report, the first problem in the investigation of CS is that such statements are typical both in the body of the Wootton Report and in much of the literature on CS to date. The statements tend to be appealing in tone but deceptively simple and usually replete with assumptions about the proper aims of sentences² and the psychological functioning

2. The term sentence will usually be preferred in the study to such terms as punishment, penalty, and treatment, which tend to imply assumptions as to sentencing aims. It is (continued)

of offenders. Such assumptions appear, however, to have been widely and readily accepted. Probably the most striking aspect, in fact, of the introduction of CS was the 'smooth ride' it received, the absence of serious opposition, the broad consensus in principle which it encountered.

Let us review the development of CS very briefly: In November 1966, the British Home Secretary asked the newly constituted Council '...to consider what changes and additions might be made in the existing range of non-custodial penalties, disabilities and other requirements which may be imposed on offenders'. The Wootton Report was published in June, 1970. The Working Group on Community Service by Offenders, formed by the Home Office to study the feasibility of CS, reported favourably the following year (Home Office, 1971). In the summer of 1972, the Home Office announced that CS programs would be established on a pilot basis in six Probation areas, with instructions to begin operations on the first of January, 1973. In October 1972 '...within little more than two years the Council had the satisfaction of seeing their proposals embodied, with few exceptions, in the Criminal Justice Act of 1972' (Wootton, 1973, p. 16).³

not without fault, however; it is associated with punishment in dictionary definitions and has a ring of finality about it, neither of which is necessarily true nowadays for all sentences. Disposition or adjudication would seem little better than sentence and, if anything, more awkward. Decision or response are neutral and more 'open-ended' than sentence, but too general for the present purpose.

3. The two chief modifications were: a) While the Wootton Report suggested a maximum sentence of 120 hours service to be completed within six months, the Act doubled both figures, required

In August, 1974, with generally favourable reports from the Probation and After-Care Service administrators, from the media, from professional journals (Groves, 1973; Harding, 1973, 1974^a; Knapman, 1974; Prins, 1974; Smith, 1974) and from its own research unit (Pease, Durkin, Earnshaw, Payne and Thorpe, 1975), the Secretary of State authorized the remaining probation areas in England and Wales to establish CS facilities as soon as practicable after the first of April, 1975. Although the essential idea of requiring offenders to perform work in the community for the public benefit had been proposed from time to time in various countries, including Britain, for at least a century (See, e.g., Ruggles-Brise, 1901; Tallack, 1899; Garofalo, 1914; Eglash, 1958, 1959; Del Vecchio, 1968; Schafer, 1970) it had been established as a practical sentencing alternative in Britain with rather astonishing speed. Imagine the delays at all stages were one to try to introduce some form of meditative therapy, compulsory conditioning, or a return to hard labour in the British Penal System!

Some did, however, question whether the newcomer had any clothes. Where, asks Hood (1974), was the 'coherent and convincing criminological argument' (p. 417) to justify the risks entailed in developing a new sentence? Where was the systematic appraisal of the

a minimum of 40 hours service, and provided for an extension of service beyond 12 months on application to the court. b) Where the Report had recommended that the legislation permit a Community Service Order (CSO) to be imposed either as a sentence in its own right or as a condition of probation, the Act allows only the former. Nothing prevents the court, however, from imposing a probation order for one offence and a CSO for another, to run concurrently. See Criminal Justice Act (1972) and its consolidation in the Powers of the Criminal Courts Act (1973).

strengths and weaknesses of currently available sentences such that the need for further non-custodial sentencing alternatives could be justified? Where was the discussion of psychological theory sufficient to support the hypothesis that 'constructive activity in the form of personal service to the community' would influence the 'outlook' of the offender (Wootton Report, p. 13)? Where was the evidence to show that a change in the offender's 'social attitudes' (Wootton, 1973, p. 18) was in any event related to his law-breaking behaviour? Further, if CS was, as Hood (1974, p. 416) suggests, embraced in both Houses of Parliament because of its 'ideological appeal', what kind of ideology did it represent? And here, one might observe with perhaps some risk of exaggeration, was a group of sophisticated social planners, echoed by many social workers, talking about the 'general outlook' and 'moral values' of offenders, about their sense of 'social responsibility' and 'consideration for others', and appealing in general to rational principles of co-operation - for all the world like a congregation of old-fashioned moralists! Why, for that matter, should the notion of unpaid community work by offenders reappear with such vigor now, after so long in the wilderness of penal theory?

While questions of this sort were doubtless considered by the Committee (Trasler, 1975), Hood would seem quite correct in his charge that the Wootton Report itself provides no adequate discussion of such issues; nor, it would seem, does the literature which has appeared since the report was published. With respect to the aims of CS, the Wootton Report readily points out that CS may serve

several sentencing aims, and indeed the Committee would seem justly proud of the fact that, for suitable offenders, CS appears to reconcile conflicting aims. But while the 'versatility' of such a 'multiple aim' sentence may be attractive to many a hard-pressed magistrate or probation officer, it also renders the sentence difficult to interpret at all levels. For the legislator there is the problem of what limits to set; for the sentencer, as Hood (1974, p. 415) points out, there is the problem of what considerations are to determine the length of a CS sentence; and for the investigator, the question of what effects to try to measure.⁴ Further - and much more significant from a theoretical point of view - here was no ordinary addition to the list of sentences with unclear aims. To all intents, CS seemed to reconcile two aims which have defined the central controversy in sentencing; two aims which are usually, one is told, implacably opposed - retributive 'justice' and humanitarian 'treatment' (See, e.g., Mannheim, 1968). One looks in vain for a discussion of the theoretical significance of this fact.

Despite the fact, however, that the administrative versatility of CS is emphasized, the Wootton Report, and certainly much of the literature, seems to show a strong preference for the 'reformative aim'. As indicated earlier, the Committee suggests specifically that CS might influence an offender's attitudes, particularly his 'social attitudes'. A number of possible factors bearing upon such

4. Walker (1968, p. 142) suggests the term 'ambiguity of aim' for this phenomenon.

a relationship are mentioned; for example, the work is to be 'meaningful', 'constructive', 'personal', performed alongside volunteers, performed for those 'manifestly in need', reparative of the harm entailed in the offence, and carried out, if possible, in the offender's own neighbourhood. The relationships between such factors and attitude change, however, are usually provided with little theoretical or empirical support nor, alternatively, are they stated explicitly as hypotheses to be tested. And, if it is reasonable to assume that the Committee is concerned at least partly with reducing recidivism in the offender, the report clearly implies that changing attitudes is a relevant method of influencing such behaviour. Again, however, the reference to supporting psychological theory or data is missing.

It would seem clear, then, that a great deal of work of both a theoretical and empirical nature needs to be done if CS is to develop systematically and to justify the hopes of its designers. Some evaluative work has indeed been done on CS since it began in 1973. This is described briefly below. We will then proceed to a description of the scope and plan of the present study.

Current Research on Community Service

There appear to be three research reports in Britain to date designed to test the effect of CS: two by the Home Office (Pease, Durkin, Earnshaw, Payne and Thorpe, 1975; Pease, Billingham and Earnshaw, 1977) and one by the probation service (Flegg, 1974).

Taking the reports in chronological order, the study by Flegg

(1974) is modest in scope and based on interviews with 25 of the first 47 offenders in Nottinghamshire who had completed their CS orders. The purpose of the investigation was to obtain the offenders' attitudes to, and opinions of, the scheme. The results are grouped in several categories. In general, the response of the offenders was positive: a) all would choose CS again if the occasion arose; b) thirteen continued to volunteer their services after their sentence had ended; c) 21 were 'definite that the experience had been worthwhile', and c) 'more than half...felt that CS had affected their outlook'. As to the offenders' appreciation of the purposes of CS, it is reported that 19 saw it as of benefit to the community, and 20 felt strongly that CS was 'of more benefit to them' than probation (which many regarded as 'sterile' and 'totally unrelated' to the offence and to a man's situation'). The author touches specifically on the reparative aspect of CS with the remark: 'Most men could clearly see the relation between offence and sentence... [although] the hope that the community service might enable a man to feel he was making reparation for his offences against society is still unestablished' (p. 58).

With respect to practical and technical matters, the report observes that the offender's 'satisfaction' with a task was not determined simply by how personal or direct the contact with the beneficiary was, but was dependent also upon whether the offender could apply his skills or could quickly gain the necessary skills. If the task, moreover, seemed only 'tenuously connected with service to an individual, a group, or a community' then how the purpose of

the work was interpreted to an offender was seen to have a marked influence upon his attitudes toward it. It is reported further that some offenders were sensitive to possible publicity if they were singled out from the voluntary workers on a job. None, however, reported adverse family or community reactions.

The weaknesses of the report are plain, and to some extent these are acknowledged by the author. First, the study is of the survey type and entails no comparison of attitudinal effects with those of other sentences. Further, the numbers are very small for this type of research, and 25 subjects from a total of 47 can hardly be considered a representative sample when, as the investigator states, 'some [did not wish] to discuss community service and some [had] left their known addresses'.

Turning to the first report by the Home Office Research Unit (Pease, *et al.*, A75), the study carefully defines its administrative purposes and the descriptive level of research intended. The investigation monitored the development of CS in the six 'experimental' Probation Districts in England for the first 18 months of the implementation of the sentence. The report provides detailed data on a wide range of topics; for example; a) the criteria used by probation officers in recommending CS; b) the number of recommendations for CS made in comparison with the number of CS sentences passed; c) the length of CS orders; d) the number and characteristics of offenders completing their order successfully; and e) the time taken to complete the orders in the various districts.

To summarize the results of the study in point form, it is reported: a) that the majority of offenders completed their CS orders successfully and considered the experience to be worthwhile; b) that probation officers are generally in favour of the scheme even though they vary a good deal in their interpretation of its aims; c) that the 'punitive element' is ranked by probation officers as the most 'disadvantageous' of the several characteristics of CS; d) that the attitudes of voluntary agencies providing the work and those of trade unions were generally positive; e) that cuttings from the press revealed widely favourable public comment; f) that 'reservations expressed in editorials concerned the administration rather than the principle of the scheme' (p. 61); and g) that the national professional associations of probation officers and social workers supported the scheme, although frequently with several conditions attached. The authors conclude that CS is administratively 'viable', though they point out that 'the effect on the offenders as a whole is as yet unknown' and that 'the penal theory underlying the scheme is thought by some to be uncertain' (p. 70).

The report is, however, open to a number of criticisms even given the acknowledged limits of the investigation. Only 27 offenders were interviewed and, inexplicably, only the 'positive points from the interviews' (p. 58) were summarized. The return rate of the questionnaires sent to probation officers was no more than 74.9 per cent, and the one item in it reported at length - requiring the respondent to rate a series of statements about the 'advantages and disadvantages' of CS - would seem to have been poorly designed.⁵ No data are given on the

interpretation of CS by sentencers, although the authors acknowledge this important omission.

The research unit followed up the initial study with an investigation of the effects of CS in terms of three measures of outcome: a) reduction in the use of prison sentences; b) reconviction within one year of sentence; and c) in the case of reconviction, the seriousness of the new offence (Pease et al, 1977). The results for each of these dependent variables are given in three separate sections of the report, titled respectively 'Displacement from Custody', 'Reconviction Study', and 'The Offence Seriousness Experiment'. The studies are discussed in sequence below.

In the Displacement from Custody study it is reported that 45 - 50 per cent of the offenders given CS might otherwise have received a custodial sentence. The investigation suffers, however, from rather serious methodological weaknesses, although these are adequately and readily acknowledged by the researchers. In the absence of explicit information from the sentencers as to what sentence they would have imposed were it not for the opportunity to use CS, the investigators were forced to rely on 'circumstantial evidence'. One of these sources of evidence was the judgment of probation officers as to what sentence the offender might otherwise receive if the court did not accept the recommendation for CS, the officer's judgment

5. The item (p. 53) is confusing. It is difficult to see whether the respondent is being asked if he agrees with a statement or, assuming he agrees, whether he considers it an advantage.

being made prior to the actual sentencing. Such judgments are clearly subject to a margin of error, although the authors do provide evidence to show that probation officers tend to be accurate in their predictions. Further, however, the necessary information was available for only 39 cases.

The other estimates of the reduction in the use of prison were based on the imprisonment rates for several groups: a) offenders who were sentenced after breach of their CS order; b) offenders considered for CS but not in fact given a CS order; and c) offenders for whom a probation officer had recommended CS but where such an order was not imposed. The imprisonment rates for the three groups respectively were 50 per cent, 18 per cent and 47 per cent. To take these rates as providing an indication of the probable imprisonment rate for offenders actually given a CS sentence rests, of course, on the assumption that the groups are at least roughly comparable. As the researchers point out, this may well not be so and in fact they record a number of reasons for doubt.

The Reconviction Study compares the recidivism rate of those offenders receiving CS with that of offenders recommended for but not subsequently sentenced to CS. It is reported that 44.2 per cent of the offenders given a CS order were reconvicted within one year compared to 33.3 per cent of those in the comparison group. The difference is statistically significant. An analysis of the groups with respect to age and a number of previous convictions - two variables commonly found to be associated with recidivism - showed,

however, that although the groups did not differ significantly with respect to number of previous convictions, CS offenders were on average younger than the offenders in the comparison group. The authors conclude that the higher recidivism rate for the CS group may be attributable to the age difference, but that in any event there was 'no evidence of any reduction in reconviction rates following CS' (p. 18). Such a conclusion is true of course for this study, but given not only the age difference but also the doubtfulness of the initial assumption that those offenders rejected for CS can usefully be compared with those accepted for it, the value of even such a cautious statement would seem doubtful.

The Offence Seriousness Experiment⁶ is an extension of the Reconviction Study and is designed to test the hypothesis that even though CS had no apparent effects upon number of reconvictions, it might yet show an effect in terms of the seriousness of any new offence. It is reported that the CS group showed no difference from the comparison group on this variable. Again, however, the comparison group consisted of those offenders for whom CS had been considered but who had been rejected. The results here would therefore also seem exposed to the questions raised earlier about the comparability of the groups. Further, the study had to cope with the difficulty of measuring the 'seriousness' of an offence. The solutions to this problem, however, would appear to have been adequate,

6. In view of the fact that the offenders were not allocated to the two groups by a random procedure, the study cannot in fact accurately be described as an 'experiment'. Rather, it was 'quasi-experimental'. See Chapter IV for references on research design.

and in any event all groups would logically be exposed to the same rate of error due to this source.

The research to date would seem to show, then, that CS is accepted by offenders, administrators, and the public, despite the fact that its aims are not clear. It would seem evident that it is feasible to put offenders to work in the community, and recommendations are made as to how this may be done in a humane and efficient manner. There is also some evidence that CS is employed to a healthy degree for those offenders who otherwise would have been imprisoned. The studies suggest, in short, that CS is at least administratively feasible. The studies of its effectiveness - either in terms of the attitudes of offenders or recidivism - are either intended simply as descriptive studies or, when evaluative, are methodologically weak.

Scope and General Plan of the Study

The brief discussion of the development of CS in Britain suggests four major criticisms of the literature on CS to date:

- 1) That, although a number of aims have been proposed for CS, there has been no adequate analysis of its aims to determine its predominant aim or the relative importance of its possible aims. It has been frequently pointed out, specifically, that CS has a 'reparative element', but there has been little discussion about the sense in which CS is reparative, and how it may compare with other reparative sanctions.

- 2) That, assuming the reparative aspects of CS - implicit in the notion of public service or charitable work by offenders as a consequence of crime - are central to its rationale, there has been no adequate justification of reparation as a criminal sanction, no adequate rendition of the social, psychological or penal theory which would show at least plausibly that reparation by offenders contributes to achieving the general aim or aims of the criminal process.
- 3) That, although CS is a theoretically provocative sentence because it appears to reconcile two sentencing aims - 'treatment' and 'punishment' - which have conventionally been deemed incompatible, its possible significance for sentencing theory has not been explored.
- 4) That there has been only very limited testing of the effectiveness of CS for any given purpose, and no studies comparing its effects with those of other types of sentence.

Each of these issues would seem to warrant detailed investigation in its own right, particularly given the speed with which CS has been implemented in Britain. It is argued, however, that at its present stage of development a broadly conceived study of CS is appropriate. CS appears to be a departure from traditional sentences both on a practical level and in terms of sentencing aims. The situation is not, for example, as it might be if one were examining a new method of fine enforcement or a new scheme for the treatment

of probationers. In such cases the investigator could quite readily assume that the aim of the new procedure was both clear and justified in terms of certain accepted aims of the criminal justice system. CS, in contrast, appears unproblematic only in practical terms, only in that it has apparently been widely accepted and can be administered fairly straightforwardly.

The present study is therefore conceived as an exploratory one in the sense that, although specific hypotheses are postulated and tested, it addresses to a greater or lesser degree all of the issues listed above. Chapter II concentrates on the first criticism - it sets out to describe and discuss the current interpretations of the aims of CS in the Wootton Report and in the literature. The various traditional sentencing aims are discussed and defined, and a definition of the 'reparative aim' is proposed. It is concluded that CS is predominantly reparative in aim within the postulated definition of that aim. Chapter III then takes up the problem of justifying the 'reparative aim', as defined, in terms of a statement of assumptions as to the general aim of the criminal justice system. It is argued, first on a broad social level and then in terms of selected areas of social-psychological theory, that reparation, as a form of 'doing justice', promotes positive social attitudes.

In Chapter IV I proceed to discuss the extent to which CS 'reconciles' several erstwhile conflicting aims. This requires an analysis of the relationships between the postulated reparative aim and the various traditional sentencing aims. Ultimately it is argued that CS does not render the punitive (denunciatory and

deterrent) and rehabilitative approaches compatible in principle, but induces both sides to shift their positions in different ways. Finally, in Chapter V, the empirical test of the effectiveness of CS in changing offenders' attitudes is introduced. The first task is the definition of the independent variable, i.e., the selection of sentences which represent different sentencing aims for comparison with CS. The dependent variables - several sets of attitude measures - are then selected and hypotheses, based largely on the discussion of theory given in Chapter III, are postulated. The remaining chapters are self-explanatory and follow the standard reporting format for empirical studies.

CHAPTER II - THE AIMS OF COMMUNITY SERVICE

Much is made in the literature of the fact that CS proved to be acceptable to those holding widely differing views about the proper aims of sentencing. The Wootton Report itself begins this theme with the following:

...in general, the proposition that some offenders should be required to undertake community service should appeal to adherents of different varieties of penal philosophy. To some, it would be simply a more constructive and cheaper alternative to short sentences of imprisonment; by others it would be seen as introducing into the penal system a new dimension with an emphasis on reparation to the community; others again would regard it as a means of giving effect to the old adage that the punishment should fit the crime; while still others would stress the value of bringing offenders in close touch with those members of the community who are most in need of help and support. ...These different approaches are by no means incompatible (p. 13).

This statement is consistent with the pragmatic approach the Committee sought to assume (Hood, 1974) and, evidently in keeping with such a posture, the report states that the Committee did not attempt '...to categorize precisely the type of offender to whom community service might be appropriate nor...think it possible to predict what use might be made by the courts of this new form of sentence' (p. 13).

The point is also frequently echoed in administrative reports. One senior probation officer (Durham County Probation and After-Care Service, 1974) put it as follows:

...the Community Service Order should be seen not as either a soft or tough option but a relevant option which [combines] maximum protection of the community with...optimum opportunities...for the reformative treatment of the offender in the open community. If this occurs then both needs are met and, further, there results a third ingredient...which should never be

overlooked; i.e., the service to the community itself. The Community Service Order, therefore, is something of a chameleon...Insofar as it deprives the offender of his spare time it can be seen as punitive; reparation, (if not necessarily in kind) can be seen to be exacted; the Community Service Order provides the offender with a setting in which he can make practical expression of atonement; Probation Officers will readily identify the group therapy and 'befriending' facets inherent within the Community Service tasks. It is this very versatility that provides the Community Service Order with its greatest potential (p. 1).

As pointed out in the introductory chapter, it is hardly surprising that a 'versatile' sentence - which appears to be one which can achieve several sentencing aims simultaneously without bringing them into conflict - would be welcomed by administrators. Cases which involve little or no conflict of aims are a tonic to sentencers and probation officers weary of choosing between conflicting aims, weary of justifying their choices to themselves and others, weary of the uneasy compromise.

But while versatility in a sentence is understandably attractive to the administrator and the pragmatic planner, particularly if appreciable numbers of cases are involved, from the standpoint of the sentencing theorist or researcher it means a sentence which is ambiguous in aim. Such ambiguity and versatility, as Walker (1968, p. 142) has pointed out, is for that matter hardly new; it frequently occurs within the scope of traditional sentences, imprisonment being the best example. For the theorist, what is of interest is not merely the 'multiplicity of justifications' (Walker, 1968, p. 142) of a sentence but what aims are represented and how they are reconciled. We will take up that question in Chapter IV. For the investigator - trying to marshal the relevant theory to support his hypotheses, choose

appropriate sentences for comparison, and devise his measures of outcome - ambiguity about what a sentence is supposed to do is the first problem to be solved.

In this chapter, therefore, we examine the current literature about CS closely, taking the various sentencing aims postulated for it in turn, and attempting to determine the degree to which CS represents each of them. In view, however, of the complexity and controversy surrounding the topic of sentencing aims it is essential for an investigator to state first what his understanding of them is. Each of the 'traditional' sentencing aims - those usually listed in the literature - are briefly discussed below. The 'reparative aim', however, is added to the list, since it is apparent that the analysis of the aims of CS will require an exploration of its reparative aspects.

Traditional Sentencing Aims

Retribution

This aim postulates that an offender should be punished in accord with what he is considered to deserve. What he 'deserves' is determined by the extent of 'harm' to others entailed in the offence and the extent to which he is deemed to have intended to cause the harm, his wilfulness or his moral 'wickedness'.

'Pure' or 'unsophisticated' (Walker, 1972, p. 19) retributivism holds that punishment according to deserts is an end itself; that it is non-utilitarian. Thus Packer (1968) defines it as follows:

The retributive position...holds, very simply, that man is a responsible moral agent to whom rewards are

due when he makes right moral choices and to whom punishment is due when he makes wrong ones (p. 9).

And Walker (1972) defines it as:

...the infliction of suffering on a person solely because of a past act, and in accordance with a divinely or socially approved code: not to be confused with retaliation or repentance (p. 266).

It is important to note, however, that a number of theorists make a distinction between justifying retribution as an aim of the criminal justice system as a whole, and justifying it as an aim of a 'specific practice' within the system. Justifying retribution as a 'general aim' of the system is distinguished from justifying it as a sentencing aim. Rawls (1969), Hart (1968) and Armstrong (1969) all argue that while (non-utilitarian) retribution may be (merely) conceivable as a system aim, it has a clear social function at the sentencing level, where the question is who should be punished and to what extent.

Thus Rawls (1969), dealing with the conflict between utilitarian and retributive aims, states that:

...one must distinguish between justifying a practice as a system of rules to be applied and enforced, and justifying a particular action which falls under these rules (p. 107) ...The answer...to the confusion engendered by the two views of punishment is quite simple: one distinguishes two offices, that of the judge and that of the legislator, and one distinguishes their different stations with respect to the system of rules which make up the law; and then one notes that the different sorts of considerations which would usually be offered as reasons for what is done under the cover of these offices can be paired off with the competing justifications of punishment (p. 109).

and that:

It is part of the conception of criminal law as a system that the application and enforcement of these rules in particular cases should be justified by arguments of a retributive character (p. 108)...utilitarians agree that punishment is to be inflicted only for violation of the law (p. 109)...like others, utilitarians want penal institutions designed so that, as far as humanly possible, only those who break the law run afoul of it (p. 110).

Rawls is clearly finding a place at least for retributive sentencing within a utilitarian framework; the retributive aim is deemed, specifically, to help to secure the political rights of the citizen.

Similarly, Hart, (1968), also addressing the question whom should be punished, distinguishes between retribution as a 'general justifying aim' and what he calls 'retribution in distribution' - the principle that one may punish 'only...an offender for an offence' (p. 9), only 'those who have voluntarily broken the law' (p. 20). Hart justifies this principle in several ways: that it expresses certain principles of justice, that it provides for excusing conditions, that it contradicts the possibility that a citizen known to be innocent of any crime is deliberately 'punished' for the sake of general deterrence, and so on. Further, he says, '...the individual has an option between obeying or paying... [he is enabled] to decide how he shall live...a system of strict liability...would diminish the individual's power to identify beforehand particular periods during which he will be free [of punishments]' (p. 23).

Armstrong (1969) identifies three 'problems' in his discussion of 'theories of punishment': 1) definition, 2) moral justification of the practice of punishment, and 3) 'penalty fixing'. The latter two are relevant here. 'Problem 2' arises from the need to justify the establishment of a system of punishments in the first place, since the infliction of suffering conflicts of course with other social or moral values. 'Problem 3', on the other hand, attempts to answer the question:

...Which method or system of determining penalties for crime is best? A theory of punishment dealing with this problem might better be called a theory of punishments, or a theory of penalties. The point of view from which the advocated method is said to be best varies; sometimes it is in the interest of society as a whole, sometimes of the criminal, sometimes both (p. 142) ...The point is that justifying systems of punishment, i.e., which method or system of determining penalties is best (problem 3), is quite distinct from justifying, morally, the practice of punishment as such (problem 2) (p. 150) (*Italics in the original*).

Armstrong then stresses the function of retribution for the protection of individual freedom, when he says:

In the area of the moral justification of a practice ...a retributive theory is essential, because it is the only theory which connects punishment with desert, and so with justice, for only as a punishment is deserved or undeserved can it be just or unjust. ...'But', it may be objected 'you are only talking about retributive justice.' To this I can only reply: what other sort of justice is there (p. 155) ...If we penalize a criminal according to what he has done, we at least treat him like a man, like a responsible moral agent. If we fix a penalty on a deterrent principle... we are using him as a mere means to somebody else's end (p. 152). ...surely our principal objection is to the deliberate infliction of undeserved pain, to the injustice of it (p. 154) (*Italics in the original*).

Finally, the theme is reflected in Walker's (1972) observation that several essentially retributive assumptions are implicit in many of the principles under which the penal system actually operates; e.g.: the offender is not to be held accountable to an extent greater than the harm entailed in the offence; punishments are to be consistent from case to case and from courtroom to courtroom; offenders are to be aware of the 'wrongfulness' of an offence in order to be culpable; and in similar notions of 'justice'.

In summary, these writers are clearly implying that the retributive principle has utility as a limiting value, i.e., as a limit upon the power of the state over individuals. Retribution means justice, and justice means freedom from arbitrary or exploitive law enforcement. The positions are not particularly clear, however, about what the positive role of 'just punishment' in a society may be. A limiting value would seem at best largely 'negative' in effect, and one can argue, with Walker (1972), that other principles would serve better.¹ For more positive utilitarian effects of the principle that offenders should suffer in accord with their deserts we must turn to the next aim.

Denunciation

This aim holds that offenders should be censured, condemned, or 'denounced' in order to express the community's disapproval of a crime. Walker (1972, p. 36) notes that historically this aim appears to have

1. Walker (1972) argues that humanitarian principles would be preferable to 'limiting retributivism' as a curb to the power of the state in sentencing.

gained ascendancy as the aims of elimination, deterrence and retribution became increasingly discredited as justifications of the death penalty for such crimes as murder and treason. He observes that it is not clear whether it is based on utilitarian or non-utilitarian reasoning, and points out that the significant question about this issue is just why the community's moral condemnation of an offence is to be demonstrated and to whom.

A general utility in terms of social and political stability would seem, however, at least implied by the numerous theorists who have propounded this view (e.g., Durkheim, 1947; Ewing, 1929; Morton, 1962; Andenaes, 1965; Packer, 1968; Feinberg, 1970). The argument is that the denunciation of evil in general and of offences in particular will tend not only to express or vindicate, but also to teach, moral principles. These principles, in turn, are clearly assumed to be related to law-abiding behaviour. If the punishment appears simply ritualistic or symbolic, the denunciator argues that such ritual and symbolism are highly effective in communicating the desired message. The trial and sentence constitute a 'morality play' (Morton, 1962) whereby 'innocence is protected, injury requited, and the wrongdoer punished' (Packer, 1968, pp. 43-44). The sentence is to act 'on the totality of conscious and unconscious motivations that govern the behaviour of men in society...Guilt and punishment are, after all, what the super-ego is all about' (Packer, 1968, pp. 42-43).²

2. Packer, in fact, discusses this aim under the (continued)

It is clear that such a denunciator has faith in the power of an appeal to rational principle or precept as an educative technique. And his insistence that injury should be requited would suggest that the moral principle or 'sentiment' he is talking about is some species of justice. The offence is wrong, not simply because of the immediate loss, damage or injury resulting from it, but because it is unjust. If the principles of justice are to be vindicated, if justice is to be done, if the message is to be 'brought home' to the offender and especially to the public, the denunciator argues that the offender not only must suffer, but must suffer at least roughly in accord with the (moral) 'seriousness' of the offence. Like the retributivist, the denunciator also requires that punishment be determined in accord with deserts.

Denunciators are, however, by no means always clear about how punishment according to deserts, how this form of justice, is related to the growth of positive moral attitudes in offenders or in society, and how such attitudes are connected with law abiding behaviour. As Walker (1972) observes, if the denunciator is to avoid the charge that he is nothing more than a (non-utilitarian) 'retributivist in fancy dress' (p. 38), he must show how the practice of condemning offenders in this way matters in terms of some level

heading: 'Utilitarian Prevention: Deterrence'. In effect, he would seem to be expanding the conventional definition of deterrence to include an appeal to the sense of moral principle in an offender or in the public at large. In my view this is not helpful and in fact Packer himself is frequently at pains to make the common distinction between obedience due to threat of punishment and obedience because of commitment to a principle. This useful distinction is reflected in the difference between deterrence and denunciation, and I therefore prefer to interpret Packer's position here as denunciatory.

or type of utility for the criminal justice system. He may be asked specifically whether he will accept in some cases mere token suffering (Walker, 1972, p. 38), and in others a substitute form of 'settlement' which may or may not involve suffering by the offender, if these can be expected to communicate the desired message as well as, or better than, punishment.

Speaking generally, denunciators appear, indeed, to arrive from two directions at the notion that there is a social utility in punishing an offender in accord with his deserts: a) There are those from the ranks of retributivists who, with their backs to the wall in a secular society, talk rather vaguely about the need to 'maintain moral values' or 'moral sentiments', or to 'preserve respect for the law'. They tend to be weak, however, about why such values should be maintained. It is perhaps such denunciators Hart (1968) has in mind when he says they represent '...a semi-aesthetic idea which has wandered into the theory of punishment' (p. 172). They are also often criticized for the arrogance of their apparent assumption that the extent an offence violates the public's sense of moral values can be determined in a complex society with any accuracy; i.e., that 'the punishment may really be made to fit the crime.'³ b) And there are those who appear to expand the concept of general deterrence when they talk in terms of the 'general educative' or 'preventive role' of the court. They also clearly assume that the inculcation of moral attitudes is directly related to law-abiding behaviour. They may be

3. See Hart (1968, p. 181) and Walker (1972, p. 27) on this point.

asked, however, what 'subtle psychological process' (Walker, 1972, p. 37), or more generally what sociological or psychological theories, at least plausibly support their hypotheses.

In summary, it has been pointed out that both retributivists and denunciators want offenders punished in accord with their deserts, at least not more than they are deemed to deserve, and stress the need to 'do justice' in this way. They differ a good deal, of course, about why justice should be done. For the present purpose it was sufficient to identify three basic positions: a) that of the 'unsophisticated' but confident retributivist who simply asserts that punishment according to deserts is right, and when asked why, remains properly silent; b) that of the 'limiting' and 'distributive' retributivists who point out that retributivism may have a broad political utility in limiting the severity and scope of the application of sanctions, but who doubt any effect on moral attitudes; and c) that of the denunciator who argues quite clearly in terms of moral development in individuals or of social control in general, and may in fact be grounded in the social sciences.

Considerable space has been devoted to interpreting these two aims. This study is not concerned directly with retributivism - since it is not concerned with the philosophical and 'political' aspects of sentencing - but it does deal with fostering moral values by means of sentencing; it was therefore considered important to state an interpretation of denunciation as clearly as possible and to distinguish it carefully from the various forms of the retributive aim. It will be seen shortly, specifically, that all of the variations of

opinion about the justification of punishment according to deserts are also raised about requiring offenders to make reparation in accord with the 'harmfulness' of their offences.

Deterrence

This aim holds that offenders should be punished in order to discourage them from offending again for fear of such consequences ('individual deterrence'), or to discourage potential offenders ('general deterrence'). It need not be discussed at length here, partly because, as we shall see, it will not be important in the analysis of the aim of CS, and partly because relative to the other aims its definition is not complex or controversial.

It is useful, nevertheless, to note briefly some of the differences between deterrent punishment and punishment according to deserts: a) the utilitarian nature of deterrence is clear; b) the severity of the deterrent sanction is in principle limited not by the harmfulness of the offence and the culpability of the offender but by the effect of the sanction on behaviour; c) deterrent sanctions are not in principle necessarily restricted to offenders - as mentioned earlier it has often been observed that it is at least conceivable that a citizen known to be innocent could be 'punished' for the sake of deterrence; and d) unlike denunciation, deterrence addresses the fears of offenders and potential offenders rather than their sense of moral principle.

Rehabilitation

This aim postulates that offenders should be given emotional support, advice in the general management of their affairs, or

assistance in coping with specific economic, social or inter-personal problems. Traditionally it has been deterministic in its orientation, assuming that human behaviour is largely controlled by psychological, sociological, and even physiological factors over which the individual has little control. Accordingly the rehabilitator has of course been much more ready to understand offenders than to blame them.

Rehabilitation and the 'rehabilitative aim' are thus given a fairly precise meaning here, and should be distinguished from 'reformation' and 'reformative aim'. The latter terms are frequently used in the literature to mean what we are calling rehabilitation, but the usage is not reliable. Often they are clearly given a very broad meaning, indicating any improvement in an offender's behaviour whatever the reasons for the improvement - deterrence, change in social, economic, or personal circumstances, change in moral outlook, and so on. Some writers, however, reserve the term reformation to mean a change in the offender's basic moral attitudes (e.g., Ewing, 1929). In view of this lack of uniformity and precision, the term reformation will not be used in the study to denote a specific sentencing aim, but rather to indicate any improvement in an offender's behaviour, whatever the reason, short of physically controlling his behaviour.

One further point should be made. Clearly, the attempt to assist or teach an offender may well require that a rehabilitator impose 'controls' or 'limits' on an offender's freedoms. To the extent that such limitations are designed to serve rehabilitative ends, they are of course within the rehabilitative aim. But if, and to the extent

that, the controls are imposed in order to protect others, they are considered here to be 'incapacitative' in aim. This aim is described separately below. Controls imposed on offender's freedoms of course almost invariably involve a mixture of both rehabilitative and incapacitative aims, but the distinction is worth noting for purposes of analysis.⁴

Incapacitation (or Elimination)

According to this aim offenders should be physically controlled to the extent necessary to prevent them from committing further offences. The degree of control may of course range from casual surveillance over an offender in the community for a short term to life-long incarceration in a maximum security prison. In the extreme, the death penalty is of course sometimes justified solely on these grounds.

Reparation

The principle of redress as a response not only to wrong-doing in general, but specifically as a legal remedy, is of course ancient. Further, its use as a criminal sanction in one form or another has been advocated by numerous penal philosophers and criminologists over the years.⁵ The principle has also been supported by social

4. The setting of limits on the freedom of a suicidal mental patient would be an example of controls which were purely rehabilitative in aim.
5. The extensive and anthropological, legal-historical, and criminological material on this topic is not reviewed (continued)

reformers in Britain; particularly by Tallack (1899) and Fry (1951).

It is only in the last few decades, however, that the idea of reparation by offenders has proceeded rapidly in Britain from appeals for reform to changes in the criminal law. In 1959, the White Paper: Penal Practice in a Changing Society (Home Office, 1959) advocated greater use of reparation in the treatment of offenders. And in November, 1966, a sub-committee (under the chairmanship of Lord Widgery) of the Advisory Council on the Penal System was asked 'to consider how the principle of personal reparation by the offender might be given a more prominent place in the penal system' (p. 1). The 'Widgery Committee's' investigation paralleled that of the Wootton Committee. In its report, titled Reparation by the Offender (The Widgery Report) (Advisory Council on the Penal System, 1970), it recommended that several types of reparative sentencing orders be established as independent criminal sanctions.

Turning quickly to the task of defining the aim or aims of reparation as a criminal sanction, several justifications for it are

here. For recent accounts, see Schafer (1970), and Hudson and Galaway (1975). The latter contains excerpts from the works of Hobhouse, Bentham, Spencer, Garofalo, Del Vecchio, and the more recent work of Schafer. See also Garofalo (1914) and Del Vecchio (1969). For an account of the role of reparation in legal settlements in medieval Iceland, see the translation of Njal's Saga by Magnusson and Palsson (1960). Reference will be made to some of the anthropological sources in Chapter III.

usually listed in the current literature; particularly: a) the benefit such a sanction provides to the victim; b) its possible deterrent effect; c) its possible general 'educative' or 'preventive' role in the maintenance of the law in that it is considered by many to assert the 'core values' of the community (Canada: Law Reform Commission of Canada, 1974); and d) its possible 'reformatory effect' on individual offenders. The Widgery Report, for example, lists several 'views' about the purposes of reparation in criminal justice, including those above and also the 'concept that reparation has an intrinsic moral value of its own' (p. 3). The report tends, however, to emphasize two features: 'the interests of the victim and the need to ensure that the offender does not enjoy the proceeds of crime' (p. 55). As regards the 'reformatory' potential of reparation, the committee adopts the language of the 1959 White Paper (Home Office, 1959) in defining this as 'the redemptive value of punishment to the individual offender...including a realization of the injury he had done to his victim as well as to the order of society, and a need to make personal reparation for that injury' (p. 3).⁶

6. See also Schafer (1970) for a justification of 'restitution' in terms of several sentencing aims operating simultaneously. While he stresses the 'correctional' effects of restitution he says, for example: 'Correctional restitution holds a threefold promise in that it compensates the victim, relieves the state of some burden of responsibility, and permits the offender to pay his debt to society and to his victim' (p. 135). It is interesting to note further that the justifications of reparative sanctions appear to have changed over the years. As Hood (1974) points out, notions about how to deal with crime and criminals are 'perhaps inevitably' shaped by 'ideological and political factors' (p. 417). These factors influence not only whether a new penal method is introduced but, where the aims of the new method are ambiguous, how it will be (continued)

It is clear, then, that despite its distinguished historical credentials and its recent vigorous development, the role of reparation in criminal sentencing is still highly ambiguous. The current statements assuredly point out - or at least hypothesize - that reparation by offenders may have several effects, and most of these indeed are consistent with one or more of the traditional sentencing aims. There seems little debate, however, about the view that reparation requires of offenders something quite different from what is required by the traditional sentences. The offender is not necessarily to suffer, to receive assistance or guidance, or to comply with limits imposed on his physical freedom, as the other sentencing aims require. Rather he is to make up, to some degree at least, for the harm arising from his offence; and although such a requirement may of course result in suffering or in various reformatory changes in offenders, these effects do not become justifying aims unless it can be shown a) that the effect is intended (and thus aim)⁷ and b) that it has at least a plausible connection with the general aim or aims of the

interpreted. Thus Garofalo (1914) and Del Vecchio (1969), writing early in this century, were to emphasize the 'repressive' (i.e. deterrent) role of reparation and its general moral influence on the public. In the late 1950's, however, we have Schafer (1970) and Eglash (1958) stressing the rehabilitative aspects of reparation and proposing the terms 'correctional restitution' and 'creative restitution'. The current accounts of reparation seem to reflect recent pragmatic approaches, and an emphasis of the 'plight of the victim'. A discussion of such trends, however, goes beyond the point here.

7. Walker (1968, p. 140) makes the point that the 'function' of a sentence may be interpreted either as the conscious aim of the sentence or as a 'foreseen or unforeseen effect'. See also Nokes (1974) for a discussion of the evaluation of prisons in terms of what he calls their formal 'objectives' and their 'functions'. These terms appear synonymous with what we are calling here, respectively, aims and effects.

criminal justice system. A sanction clearly is not justified merely because it may have certain desirable effects but only if the efforts serve the ends of the system.

The problem here, then, is to try to determine which, if any, of the effects mentioned above justify reparation as a criminal sanction. If this can be done it may make sense to define the 'reparative aim' as a sentencing aim distinguishable from the traditional sentencing aims, and to determine whether or not it represents, as Hood (1974) suggests, a 'new element in the penal system' (p. 403). In the process we shall inevitably deal with the common question whether reparation used as a criminal sanction, or 'criminal reparation',⁸ differs from its use as a civil remedy. Further, we shall consider whether an offender can make 'reparation' to the state for the 'harm' entailed merely in that a law was violated, regardless of any material damage.

Turning first to the argument that reparation is justified as a criminal sanction because it assists victims to recover their loss or satisfies their desire for justice, this is of course the most obvious and direct effect of a reparative sanction. The court clearly foresees this effect and intends it to occur by the very definition of the sanction. The argument is often made that an offence clearly violates the interests of the victim, including his 'right to justice', but that he is usually 'forgotten' in the criminal process,

8. Laster (1975) used the term 'criminal restitution'. I have taken his lead here.

and becomes merely a witness who may or may not be required to prove the guilt of the offender. Let us consider, however, how the debate might then unfold.

The basic opposing argument does not dispute the fact that a reparative sanction benefits the victim in several ways, but asserts that the victim's remedy lies in some form of civil action. A crime is after all by definition an offence against the state, and the business of the criminal courts, it is held, is to protect the interests of the state. Is not resolving disputes between individual citizens - doing justice between individuals as individuals and not as citizens representing the community as a whole - precisely the task of the civil court? Not only would the goal of protecting the interests of the individual citizen duplicate expensive and skilled services offered elsewhere, but surely this would tend to becloud the vital function of the criminal court in society, to jeopardize its effectiveness in maintaining the criminal law. It would be a matter of not seeing the woods for the trees, and show a failure to understand the difference between the basic aims of the criminal and the civil courts.

A common reply by the reparatorist who stresses the benefit of reparation to the victim is that civil court action is an expensive, time consuming and complex process quite beyond the resources of most victims, and above all that the efforts of the victims are likely to go unrewarded for lack of resources of any sort on the part of the vast majority of offenders. Since the criminal court

has broad powers of enforcement, he argues that there is much greater chance of successfully obtaining reparation from offenders in this court.

The critic, however, can then observe that these are at best arguments based on administrative expediency and humanitarianism rather than on legal or penal theory, and that they fail to reply to the critic's point. But, entering this level of argument, the critic can point the reparatorist in the direction of possible reforms in the civil area as the most fertile and least rocky ground for his zeal. Perhaps, he acknowledges, the state should indeed assist victims with civil prosecutions, and assist offenders in various ways to pay civil judgments. If such reforms fail, the critic can point out that in the vast majority of cases of harm to citizens arising from criminal offences the matter is in any event presently handled rather efficiently by insurance schemes, sometimes by state compensation schemes, and, at least occasionally, by the present civil process. Reparation in the criminal court would, for that matter, be limited to those relatively few offences where the offender is apprehended, prosecuted and convicted. Further, considering the criminal court's general duty to protect the interests of society, it could devote only limited resources to the task of assessing 'damages' and enforcing reparation orders. Finally, the actions it might have to take in the interests of the society as a whole might well conflict with any desire to assist or do justice for the victim, and in many cases lead to the rejecting of the victim's claims altogether.

The reparatorist can reply of course that establishing 'legal aid' for victims and effective procedures or facilities for the collection of debts from poor or unco-operative offenders within the civil process is impractical. He can point out further that an expansion of state compensation schemes to cover property or other offences is far too expensive, and that in any event there is no clear moral argument that the state owes such protection to its citizens (see Walker, 1968, p. 128, footnote 1); it is the offender, in any case, who has the moral obligation to pay.

The critic, however, can concede much of this but return to his unanswered basic point: that the criminal court has more important things to do than to try to function as 'the poor man's civil court' or as a special kind of welfare bureau. If the common distinction between the aims of the civil and criminal process is to be preserved, and if the reparatorist is to avoid being cast simply in the role of a well-meaning humanitarian, the criminal reparatorist must show that reparation can serve as a criminal sanction, that it serves the ends of the criminal justice system.⁹

9. The Widgery Committee, for example, found itself roughly in the position of the reparatorist described here. While recommending the greater use of reparative sanctions in the criminal courts it frequently and properly pointed out that there were not only practical limits to the implementation of a reparative sentencing policy but that the criminal court had to consider several other aims. The criminal court however is placed eventually in the position of having to cope with three separate interests: those of society, those of the offender, and those of the victim as well (p. 56). So strong was the assumption that at least one of the justifying aims of criminal reparation was to assist, or to do (continued)

The arguments against benefit to the victim, as an individual and not as a citizen, as an aim of criminal reparation are regarded here as convincing. It is assumed that the criminal courts should not, for the reasons mentioned above, attempt to offer both what is tantamount to a civil remedy to crime victims and to impose criminal sanctions, to try to practise, as it is put, 'one-stop justice'. Once the criminal reparatorist disclaims any assumption that criminal reparation has the same primary aim as civil reparation despite, to some degree, similarity in effects for the victim, he arrives at much safer ground. He attempts, as it were, to take the offensive and argue in terms of those effects of reparation which are plausibly related to the aim or aims of the criminal justice system. The other effects of reparation - expression of moral values, deterrence, 'reformation' of offenders, etc. - mentioned earlier are of this sort, and we consider them below.

justice for, victims, that the Committee in the end makes highly qualified and rather ambiguous statements about the role of reparation in the criminal courts. A 'significant advance' (p. 53) in the use of reparation is recommended, yet it remains an 'ancillary penalty' (p. 53) which should be considered only 'in respect of the direct consequences of an offence resulting in appreciable loss to the victim' (p. 53), and here only where assessment of the loss and enforcement of the order are practicable. It is stated that although the 'obstacles...cannot readily overcome...a substantial increase in the number of compensation orders made by the criminal courts could be brought about by a greater readiness' (p. 54) to order them. The conflict between protecting the interests of the state and 'concern for the victim' haunts the report and, indeed, the Committee ultimately remarks that reparation 'ideally would be better accomplished in civil proceedings' (p. 54).

Let us take first the postulated deterrent effect of reparation. This follows of course from the fact that reparation may well place onerous burdens on offenders. Deterrence as an aim for reparation means, however, that the repayment to the victim is required in order to make the offender suffer; i.e. it is a method of punishment. While the suffering may be a foreseen effect welcomed by the court in many criminal cases, there are clearly more efficient and flexible ways of punishing offenders in accord with the degree of discouragement required. The major difficulty with a reparative sentence as a method of deterrent punishment is that its severity is in principle limited by the amount of harm done. While one might interpret 'harm' very liberally in order to achieve flexibility, there comes a point where the amount to be repaid can no longer be defended as reparation, but is more accurately called a (punitive) fine. In short, if one accepts the definition of the aim of deterrence given earlier, i.e., that it implies that the severity of the sentence is limited in principle only by the expected effect on behaviour, then reparation must be seen as having limited use as a deterrent, hardly enough use for the deterrent effect to serve as a predominant justifying aim.

Is reparation, then, simply a new rehabilitative sentence? The 'reformatory' or 'corrective' (e.g. Schafer, 1970) effects of reparation are frequently stressed. Some speak in terms of the 'reconciliation' of the offender with his victim or with the community as a whole (e.g. Canada: Law Reform Commission, 1974) or of the function of reparation in 'giving the criminal a chance to

work his passage back to society' (Schafer, 1970, p. 121).

The answer to the question depends of course on how the rehabilitative aim is defined. Earlier we defined this aim in traditional terms as deterministic in its philosophy; accordingly, in its practice, it sets out to 'meet the offender's needs', 'manipulate his environment', assist him to cope with his economic or social problems, and the like. The 'reformatory' aims of reparation mentioned earlier are clearly not of this sort. The emphasis of the reparativist appears to be on the offender's accountability for his offence, his moral obligation to the victim, the possibility of atonement or redemption for his wrong doing - effects which virtually do not appear in the manuals of the traditional rehabilitators. The reparativist is clearly speaking of a different kind of 'reformatory aim'. We shall return to it in a moment.

We consider next the effect of reparation in 'ensuring that the offender does not enjoy the proceeds of crime'. It should be noted first that this applies only to those offences where material or liquid 'proceeds' do occur; i.e. this justification has limited application. In any event such an effect, like benefit to the victim, is true of reparation by definition, and the question is why the offender should be deprived of the benefits of a crime.

The effect appears to be justified as an aim mainly on the grounds that allowing the offender to keep the proceeds acts as an incentive to crime. It thus contradicts any deterrent effect a sentence might have and, since it competes with the 'rewards' a

law-abiding life is held to offer, it also contradicts any rehabilitative measures the court might impose.

It is clear, however, that while the removal of impediments to the deterrent and rehabilitative aims might justify taking the goods away from offenders, it does not necessarily imply that such goods should be returned to the victim. Confiscation of the proceeds can obviously be achieved by appropriate fines or by criminal bankruptcy proceedings. Returning the proceeds to the victim must be justified on its own grounds, and here it would seem we encounter again the notion of the court's role in promulgating moral values. The offence, it can be pointed out, represents not only a violation of the law but an injustice to a citizen. Failure to return the goods to the victim, where the opportunity exists, contradicts the notion that sentences should teach, or at least express for their own sake, principles of justice.

This brings us to the group of aims justifying reparation on moral grounds. It can be argued that reparation can be seen a) as an end in itself (as having an 'intrinsic moral value of its own'), b) as a means of teaching moral values to offenders (the 'realization of the injury...done'), or c) as a means of fostering moral values in the community at large (its 'educative' role in maintaining the 'core values' of the society). And it is a short step to observe, as we did with respect to the retributive and denunciatory aims, that the 'moral value' the reparator here wants to express or to foster is justice - the offender is

deemed to be responsible for his acts, and justice requires that he repair, in some way, the harm he does.

These aims are of course precisely those typically proposed by retributivists and denunciators in support of punishment according to deserts. If we press the comparison, we have two basic versions of the reparative aim, analogous to the retributive and denunciatory aims: a) the non-utilitarian reparative aim which would require offenders to repay their victims, as an end in itself, for the harm resulting from the offence,¹⁰ and b) the utilitarian reparative aim which would require such repayment as a means of fostering an awareness of the principles of justice in the offender concerned or in potential offenders. Like the denunciators, the utilitarian reparator implies that an awareness of the principles of justice is positively related to social behaviour, specifically law-abiding behaviour, but here also the supporting social and psychological theory is usually not supplied in the current literature advocating reparation by offenders. We turn to that topic in Chapter III. For the moment, the definitions of the two versions of the reparative aim given just above appear the most defensible.

10. Reparation for its intrinsic value corresponds of course to non-utilitarian or 'pure' retribution, and not to distributive or to limiting retribution. One might extend the comparison, however, and note that reparation implies that it is only the offender who should pay and that the payment should not exceed the harm done. The reparative aim thus also limits the powers of the sentencer, and one could coin such analogous terms as 'reparation in distribution' and 'limiting reparation'. As mentioned earlier, however, this issue is not of concern in this study.

State as Victim

Before leaving this discussion of the aims of reparation there is one further question mentioned earlier to be dealt with: whether the state may be regarded as a 'victim' of an offence merely because a law is violated, whether the concept of reparation to the state, save in cases where there is damage or theft of publicly owned property and the like, makes sense.

The conception of the state as 'victim' of any crime is perhaps not common in the current literature but does occasionally appear, and certainly it appears to be accepted by criminal reparationists. The primary answer to the issue would seem to be that by the act of defining certain forms of behaviour as 'crimes' the state declares itself a victim of the behaviour, declares itself harmed, and reparation is said to follow as a matter of justice. An assault on the rights or person of any citizen within the orbit of, as it were, the king's peace, is also an assault on the 'person' of the king. Del Vecchio (1969), for example, in his argument for the inclusion of the reparative principle in sentencing, states that:

In some cases the harm done and consequently the injury of reparation affect only the individuals concerned...but if the wrongful act is done with criminal intent...the resultant harm commonly is the concern not only of the individual who has suffered it, but also of all fellow members of the society, whence comes a need of reparation of a public nature...(p. 201).

Similarly Garofalo (1914) states that for him reparation means:

...compelling the offender to make good the

material or moral damage caused by his crime...in money, or else in work for the benefit of the injured person until restitution is effected... The injury, however, is not confined to the latter. Society as a whole suffers both moral and material injury...(p. 227). (Italics added)

and that:

[The offender should be required to pay] two fines, one for the benefit of the state as compensation for the social disturbance, as well as to defray the costs of prosecution, the other for the benefit of the injured person (p. 389).¹¹

It might be objected, however, that although violation of the law may be accepted as harmful to the state, the harm is intangible, and hardly suitable except perhaps metaphorically, for a material form of settlement such as reparation. The answer would be that the essential requirement of justice is that settlement occur, that there is no common currency but rather simply an exchange of values, and that these values may take many forms. Indeed the notion that committing a crime creates a 'debt to society' and that such a debt can be 'paid' in various ways is common in penal practice. The punishment an offender is considered to deserve on retributive grounds is often mitigated by information that the offender has made efforts to make reparation, or by evidence that he has otherwise made valued contributions to his community.

11. Hart (1968) also mentions such a conception in his outline of several defences for 'the principle that punishment must be reserved for voluntary offences'. He states that one of the points of view 'is that of the rest of society considered as harmed by the offence (either because one of its members has been injured or because of the authority of the law essential to its existence has been challenged, or both)' (p. 22) (Italics in the original).

In fact, the 'seriousness' of the violation of the law, in terms of which appropriate punishment is reckoned, is itself based partly on the material harmfulness of the violation and not simply on the fact of the violation. Smith's (1965) suggestion - that prisoners be allowed 'credit' for any reparation they make over the period of a prison sentence and thus be able to determine the duration of their own sentence - is an explicit expression of the principle of exchange of different forms of value.

There is of course a limit to the extent to which harm in one form can be 'settled' by providing benefits in another, and we shall have a good deal more to say about this in the discussion of different forms of justice in the next chapter. But for the moment it is assumed that reparation can be made by offenders to the state merely for violating the law.

Summary

The definitions of the traditional sentencing aims and of the 'reparative aim' adopted here may be stated briefly as follows:

Retribution. Punishment according to deserts as an end in itself.

Limiting Retribution. Punishment according to deserts in order to limit the severity of punishment.

Retribution in Distribution. Punishment according to deserts in order to ensure that official punishment is restricted to voluntary offenders.

Denunciation. Punishment according to deserts in order to foster an awareness of the concept of justice in the offender concerned or in potential offenders, the assumption being that such moral awareness is related to

law-abiding behaviour.

Deterrence. Punishment in order to discourage the offender concerned, or potential offenders, from offending again for fear of such consequences.

Incapacitation. Limiting the physical freedom of an offender to prevent him from offending again.

Rehabilitation. Changing an offender's social behaviour (including law-breaking) by changing his environment or teaching him the attitudes or skills necessary to cope with his social, economic or personal problems.

Non-utilitarian Reparation. Requiring the offender to repay the victim(s) of his offence, as an end in itself, for the harm resulting from the offence.

Utilitarian Reparation. Requiring the offender to repay the victim(s) of his offence for the harm resulting from the offence in order to foster an awareness of the concept of justice in the offender concerned or in potential offenders, the assumption being that such moral awareness is related to law-abiding behaviour. (The terms reparation and reparative aim will denote this aim in this study.)

At least some of the definitions are bound to be controversial. To discuss them further would, however, go beyond the essential purpose here, i.e., to provide at least a clear and coherent basis for the analysis of the aims of CS. The stress on justice as the central concern of the retributive, denunciatory, and reparative aims will hopefully become more defensible as we proceed, particularly in Chapter III where the function of justice in society is reviewed, and in Chapter IV where an attempt is made to assess the significance of CS for sentencing theory.

In the meantime, it should be noted that the definition of the reparative aim presented the most difficulty, since there was so little in the literature on which to rely. I felt confident

in arguing a) that reparation could not be justified as a criminal sanction on the grounds that it benefitted victims, and b) that the reparative principle could apply even though the victim of an offence was the society as a whole. It was necessary to be much more tentative, however, in the attempt to determine positive aims for criminal reparation. As we approach the analysis of the aims of CS, we shall see that much of the ambiguity currently surrounding its aims has to do with the problem of determining the predominant justifying aim of criminal reparation.

Interpreting the Aims of Community Service

The Incapacitative Aim

There appears to be no serious claim in the literature that CS has any particularly incapacitating effect on offenders at least in a way that can be expected to be related to law-breaking. It would have to be assumed that crimes are committed, or at least planned (those that are), for the most part on Saturdays between 9 a.m. and 5 p.m. or during a few odd evenings during the week. Even probation, with the possibility of special conditions limiting the freedom of the offender, would seem potentially more controlling.

The Retributive, Denunciatory, and Deterrent Aims

These aims are combined here because they all involve the punishment of the offender and thus they first require of a sentence that it can be used to make offenders suffer. Certainly such a component in CS is often acknowledged. The Wootton Report, for example, states that 'a court order which deprived an offender of his leisure and required him to undertake tasks for the community would necessarily be felt to have a punitive element' (p. 13). Such an aspect would also seem implied in other places in the report; for example:

Many offenders are sentenced to imprisonment for lack of any more appropriate alternative...for example, where the offence required the imposition of an effective deterrent, both to the offender and to others; where a fine was in effect no penalty; ...where a custodial sentence was... too harsh (p. 3). Community Service should...be a welcome alternative in cases in which at present

the court imposes a fine for want of any better sanction, or again in situations where it is required to stiffen probation... [or] in certain cases of fine default (p. 13 - 14).

The point also appears elsewhere. Smith (1974) puts it as follows:

The punitive case is well taken with the fact that the work demanded of offenders can be hard, manual, and disciplined, and that the regime through which the necessary hours are completed will cause some inconvenience, will make inroads on leisure hours, and could even carry a certain social stigma (p. 245).

As we saw earlier, however, it is one thing to say that a sentence has certain effects, 'elements', 'components' or 'aspects' and another to advocate that such effects be intended, that they be justifying aims. There is, indeed, some indication of a desire to include punishment as an aim for CS, although this appears to come not from penal theorists but from the political quarter. Thus, Hood (1974) notes that:

The government did insist on inserting a minimum period of 40 hours and a maximum of 240 instead of 120 hours to stop the new proposal being seen by the public as 'the soft option of all time' and to make its deprivation of leisure a more realistic alternative to terms of imprisonment of up to six months (p. 415).

But how much does the offender actually suffer under CS as it is currently practised under the present regulations: How much deprivation is there? Despite the increase in its maximum severity to 240 hours of work, this is still only 30 eight-hour working days. The average sentence in one study is about 130 hours, with 73 per cent serving less than 150 hours (Pease, et al, 1975). The work

is chosen, moreover, so that it will coincide so far as possible with the offender's interests, skills, or convenience. And, for the most part, it would seem no more stressing physically, or, in itself, psychologically than that of most workmen - painters, gardeners, van drivers, construction labourers, male nurses, or sports coaches. Most offenders apparently do not find the work onerous, and many come back as volunteers after the expiry of the sentence (Pease, et al, 1975; Flegg, 1975).¹²

Nor does there appear to have been any effort to determine how severe offenders consider CS to be in comparison with other sentences, how many hours of CS would be considered equivalent to, say, a month in prison or a fine of £50. On the contrary, there is considerable emphasis in the literature on the problem of avoiding or reducing any punitive effects of CS. There is concern, for example, that a 'chain gang' (Wootton, 1973, p. 18) image be avoided; it is suggested in the Wootton Report that the offenders work 'in association with non-offenders' and not 'by groups consisting solely of offenders' since this would 'be likely to give the scheme too strong a punitive flavour' (p. 13). The Committee specifically rejects any retributive intent for CS with the words:

12. In fact, concern has been expressed as to how the government social agencies and volunteer service organizations can accommodate the number of offenders who want to continue in voluntary service or who may even seek employment in the social services. See, for example, Harding and Jarvis (1974). The topic was rather heatedly debated at a conference on the treatment of offenders in the community sponsored by the University of London, Department of Extramural Studies, November 30, 1974.

...it is not our primary intention to make the punishment fit the crime; should this occur, we would expect it to be as much a matter of accident as of design... the scheme we have in mind...is intended not to compel the offender to undergo some form of penance directly related to his offence, which would have only limited application, but to require him to perform service of value to the community or to those in need.¹³

In general, if one of the aims of CS is that offenders should suffer, then there would seem rather an excessive concern that the suffering be minimal. Since the punitive effects of CS appear so limited, a punitive aim for CS, at present at least, can hardly be considered important.

The Rehabilitative Aim

The dominant theme in the Wootton Report, as in much of the literature to date, would seem to be that CS may have a 'reformatory' effect on the offender. As we saw earlier, this effect was stressed by the chairman of the Council in his introductory remarks to the report, and in the text of the report the Committee remarks as follows:

What attracts us...is the opportunity which [CS] could give for constructive activity in the form of personal service to the community, and the possibility of a changed outlook on the part of the offender. We would hope that offenders required to perform community service would come to see it in this light, and not as wholly negative or punitive (p. 13).

Elsewhere Wootton (1973) says:

The link with voluntary organizations is crucial. In particular, one may cherish the hope that association with people who of their own volition go out of their way to

13. Although these remarks were made in the context of an argument against 'gimmickry' in matching the work to the needs of the offender or to specific types of offences, the point is clear. Baroness Wootton in fact takes the view that CS has nothing in common with retributive punishment (personal communication).

help the disabled or the aged...may make a favourable impact on the social attitudes of at least some of those who are required to work alongside them...the intention of the scheme is not to humiliate or even to punish, but to promote a sense of social responsibility (p. 18).

Earlier, however, we drew a distinction between the terms 'reformatory' and 'rehabilitative', and defined a reformatory sentence broadly as one which tended to have a good effect on an offender's attitudes or behaviour, whatever the rationale of the sentence. The rehabilitative aim, however, was defined narrowly as referring to a specific rationale as to how attitudes and behaviour are changed. What we are looking for here, then, is not simply for argument that CS may influence an offender's 'outlook' or in some way improve his behaviour, but that it will do this in a certain way; for example, by offering an offender support or guidance, by 'manipulating his environment', or by improving his occupational or social skills, and the like. The quotations above, then, clearly do not necessarily imply the rehabilitative aim defined in this way. Let us look more closely, therefore, for evidence of the interpretation of CS in terms of the narrow and traditional definition adopted here.

First, the non-custodial nature of CS is probably its most frequently mentioned characteristic. It was of course the task of the Wootton Committee to develop such sentences. The point here, however, is that the Committee regarded imprisonment as unacceptable not only on economic grounds but also because it was deemed inappropriate and harmful for many offenders for whom it is

used (Wootton Report, p. 3).¹⁴ At least in a negative sense, therefore, CS was to contribute to the rehabilitation of the offender. Such an effect is, however, true by definition of all non-custodial sentences. As Hood (1974, p. 17) points out, this end in itself could be achieved without developing a new sentence. We must look to other properties of CS for evidence of a more positive expression of the rehabilitative aim.

There is some direct evidence of this sort. Harding (1974b), a probation officer, states, for example:

The objectives were clear from the outset...They remain thus:

1. Community Service should be a worthwhile experience for the offender.
2. Community Service should offer tangible benefits to the community or a section of the community.
3. Community Service should take place in or near a person's locality, unless the subject is keen to pursue an activity outside his area.
4. Community Service should offer the participant an opportunity to continue service after the expiration of the order (p. 2-3).

There is considerable ambiguity about this statement - and indeed the second 'objective' is true of CS by definition - but Harding's discussion of them (Harding, 1974c) gives the total impression that he is focussing on the offender's social adjustment in a traditional way, that he is interpreting the aims of CS within the traditional

14. See Hood (1974) for a criticism of what he considers to be the Committee's failure to document its assumptions about the deleterious effects of prison and its assumption that existing non-custodial sentences were insufficient.

(rehabilitative) goals of his profession.

The rehabilitative aim is also explicitly stated in Whiteley's (1973) description of CS as 'an opportunity for social learning'. He specifically criticises as naive the notion that 'the task itself [be] thought to instill some special virtue...because it is a socially worthwhile or a helpful one', and recommends rather that CS be 'used as the medium through which we are able to explore the interpersonal conflicts that arise...' (p. 276).

Administrative reports, moreover, often assume rehabilitative ends for CS. The following remarks, for example, are taken from a report by the Inner London Probation and After-Care Service (undated):

Instead of having his decisions made for him, [the offender] has to cope with everyday work and life and, in addition, make up his mind to present himself at his place of service at the right time and in the right frame of mind (p. 16)...It is hoped that, by focussing on the positive elements of the offender and concentrating on facilitating his completion of the order, his success in this one field may spill over to other facets of his life (p. 17).

Further it is frequently mentioned that an offender may learn at least the rudiments of a practical skill which may improve his employment prospects, or may become interested in continued volunteerism - behaviour hardly compatible with law-breaking.¹⁵

The assumption that CS is rehabilitative in aim is, however, more frequently implicit rather than articulated in the literature.

15. See Harding (1973) for a discussion of CS in the context of the development of 'new careers' for offenders.

This may be demonstrated in several ways. a) The selection of the probation service as the most appropriate agency to administer the scheme would, on the face of it, imply an emphasis on rehabilitation. (Although this decision was not easy to make; we shall return to this in a moment.) Smith (1974), for example, while giving a concise account of the appeal of CS to a 'coalition of penal theorists', places it among 'intermediate treatment measures'¹⁶ and eventually sees it as:

...taking its place beside a whole battery of resources controlled by probation officers...which in due course represent almost a full range of social services for the isolated and the delinquent (p. 250).

b) Terms common in social work are also frequently used. The offender sentenced to CS is not a sinner who must atone nor a scoundrel who must be punished or repay, but still a 'client' in need of a 'service'. c) Further, the criteria chosen for the selection of offenders for CS often reveal a rehabilitative bias. Some items of course have to do with the likelihood of the offender's co-operation with the scheme - his emotional stability, his tendency to commit sexual or violent offences, his residential or employment pattern, the presence of alcoholism, low intelligence, and the like. Many of the criteria, however, manifestly pertain to the possibility that CS will help the offender to cope with his psychological or social problems. CS is recommended, for

16. I.e., penal measures 'intermediate' on a non-custodial/custodial dimension. Smith's article is indeed not so much an analysis of CS in terms of sentencing theory as it is a discussion of it in terms of 'social work' or 'treatment' principles.

example, for those who are 'purposeless' or 'withdrawn', those with 'little opportunity to contribute' or who 'lack social training' (Pease, et al, 1975). d) Finally, the selection of measures of effectiveness would appear appropriate for the rehabilitative aim. Harding (1973), for example, remarks as follows:

...one is frequently asked...whether [CS] is a punitive or rehabilitative measure. I would rather ask...simple questions such as...Does it work? What have we learned about certain types of offenders?...What are the reconviction rates? (p. 17)

While recidivism is also an appropriate measure of results for sentencing aims other than rehabilitation, there would seem little doubt that it is rehabilitation that Harding has in mind.¹⁷

There is, then, some evidence that CS is frequently interpreted, either explicitly or implicitly, within the traditional meaning of the rehabilitative aim. At times, however, the effort appears decidedly procrustean, or at least highly ambiguous. Take the following remarks of the British Association of Social Workers (BASW) (Pease, et al, 1975):

...it is important that the service undertaken is seen by the client as making a direct contribution to the needs of the community. In this way the reparative element of Community Service can be

17. The choice of terminology, selection criteria, and measures of effectiveness would all follow, to some extent, from the initial choice of the probation service to administer the scheme. It might be noted in this connection that one of the problems with sentences whose aims are ambiguous is that they are subject not only to inconsistent use by the courts, but to varying interpretations 'down the line' of administration. This has led to suggestions that sentencers make their aims clear in all cases. See Thomas (1963), and Walker (1968, p. 231).

emphasized...we would suggest that two or three terms, possibly 100, 150 or 200 hours, should be set. The court would then be able to make its choice according to the needs and abilities of the offender in the same way as it selects the term of a probation order (p. 64). (Italics added)

Although the work is to be 'reparative', the offender is evidently to repay his debts not according to the amount of the debt, but according to the degree to which it is considered in his own interests to do so!

More often, however, remarks about the rationale of CS would seem not so much forced or awkward but simply imprecise. In the words of the Wootton Report (pp. 13 and 14, particularly), for example, the work required of the offender is above all to be 'constructive' and 'positive', hopefully even 'imaginative' (though without 'gimmickry'), and if at all possible, performed alongside volunteers who might exert a 'wholesome influence' upon him. CS is considered 'less sterile' than imprisonment. These are anything but exact terms.

What is often plain, however, is that if CS is to be regarded as 'treatment', it is treatment with a difference. Taking first the remarks of the Committee, the Wootton Report makes it clear that CS was quite different from other rehabilitative sentences. First, while the Committee ultimately recommended that the probation service administer the new program, it had difficulty making the choice and considered several alternatives. And although the professional associations consulted 'all readily accepted the proposition that the Probation and After-Care Service

would be the appropriate organization' (p. 17) to administer CS, not all Probation Officers agreed - some felt it was a 'form of supervision difficult to reconcile with their consciences' (Wootton, 1973, p. 17). Further, the Committee itself was concerned lest CS 'blur the traditional concept of probation' (p. 19). The solution was to regard it, 'even though linked with supervision by a probation office,...as a new form of treatment standing in its own right' (p. 19).¹⁸

Indeed, it begins to become plain that although CS is widely seen as 'reformatory', it represents not only a change of method but a change of goals. As to methods, the emphasis is clearly not so much on the offender's lack of sufficient guidance, economic opportunities or social skills but on his strengths; not on his 'dependency needs' or lack of insight into his own motivations, but on his capacity for responsibility; not on his vulnerability to social or psychological forces but on his capacity to choose. The offender is not to be responsible for

18. As regards the form of the court order, the Committee did recommend that CS be established not only as a separate order but also as a condition of probation. The report makes it plain, however, that this was mainly for practical reasons; e.g. to avoid 'multiplying new forms of court order' (p. 19) or to provide for the efficient administration of CS offenders who also required 'continuing support and supervision' (p. 19). Ultimately, the government recommended that CS be established only as an independent sanction and this became law. The reasoning here, however, rested mainly on pragmatic considerations rather than theoretical principle; i.e., there was a concern lest the fledgling program be 'buried' under probation before it could get off the ground (Pratt, personal communication).

himself as it often expressed the notion of 'responsibility therapy' or 'reality therapy' (Glasser, 1965) where the individual is 'confronted' with his responsibility for his own problems. Rather, the stress is on his obligation to others. As Knapman (1974) observes:

...the best way to help someone who feels inadequate and at odds with society is to show him or her that they [sic] can make a major contribution to the community in which they [sic] live (p. 163).

And Prins (1974) states he

...would support entirely the suggestion that the fact that an offender can give service, and that the community can see that he can give it, may be a far more crucial factor in his rehabilitation than we have previously believed to be the case (*italics in the original*) (p. 4).

Finally, the object of it all is to be nothing more modest than fostering an awareness of the needs of others, an awareness 'that the members of society are interdependent' (Groves, 1973, p. 90). The object, in short, is to change the offender's basic moral attitudes toward his society. Ultimately, it becomes apparent that the 'treatment' CS represents bears little resemblance to traditional rehabilitative methods or aims.

The Reparative Aim

The first question here is whether CS is reparative in its effects. A sentence is of course reparative in effect if, and to the extent that, it returns the victim to the status quo ante prior to the offence, that it 'undoes the harm' in some material way. And it was argued earlier that the state can be considered a 'victim' of any crime.

Applying these principles to CS, it is worth noting the obvious first; i.e., that the offender is to serve, to give without return, and not to be paid. CS is not an employment scheme. Secondly, the work is to be 'constructive' or 'positive' and preferably patently so; in the case of charitable work, the recipients should preferably be 'manifestly in need'.¹⁹ Thirdly, the work must be of benefit to the community as a whole; it must be of a public service nature or for publicly approved charities. Offenders may be ordered to tidy up a public park but not a private garden, no matter how conveniently available or ideally suited to the 'needs' of the offender the private work might be.²⁰

Further, the 'reparative element' is well represented in descriptions of CS in the literature. The Wootton Report, as we saw earlier, observes readily that CS might be seen by some as 'introducing into the penal system a new dimension with emphasis on reparation to the community' (p. 13). Hood (1974) places the development of CS squarely in the context of the growing emphasis in Britain since the 1950s on compensation and restitution. Pease et al (1975) consider reparation 'possibly the most obvious aspect'

19. Offenders, incidentally, seem to decline CS tasks which involve helping other offenders. Evidently they don't consider such beneficiaries 'manifestly in need' (Pratt, 1974). The tendency of offenders to judge other offenders in moral terms is commonly observed.
20. Several sentences, of course, have reparative effects to some degree; e.g., the prisoner in the industrial prison who (at least conceivably nowadays) earns more than his keep or, more clearly, the fined offender.

(p. 5) of CS, noting its similarity to damages in civil court. And Pratt (1974), a senior administrator in the probation service, emphasizes the reparative component of CS. Certainly administrative reports usually include reparation as one of several 'aims' of CS. The following remark in a report from Inner London (Inner London Probation and After-Care Service, 1974) is typical:

[CS] demonstrates to the offender that society is involved in, and affected by, his delinquency but that the debt he has incurred can be repaid to some extent by work or service to the community (p. 1).

It is seldom clear, however, whether the material benefit to the state-as-victim is regarded simply as a foreseeable and desirable effect for CS or as a justifying aim. If it is the material benefit, the critic can observe that net economic benefit to the state entailed in CS is probably not appreciable considering the costs of its administration in relation to the current lengths of CS sentences (and barring savings because of avoiding prison sentences for some offenders). Be that as it may, he may argue also that reparation as a means of recovering material loss implies that the 'severity' of the sentence be determined largely by the assessment of the harm ensuing from the offence. Here he can point out that there are certainly no explicit recommendations that the number of hours of CS required be determined in this way.

On the other hand, there appears to be no serious suggestion in the literature - with the notable exception of the submission

of the BASW mentioned earlier - that the number of hours ordered be determined in accord with the 'treatment needs' of the offender or in accord with the requirements of deterrence. On the contrary not only is a connection between the offence and the 'severity' of CS generally not denied or contradicted (even by the rehabilitators), but the offender is indeed to appreciate the relationship. Wootton (1973), for example, expressed concern lest the work extend over such a long period that the offender 'may feel that any relevance of [the] obligations to his destructive activities...has worn rather thin' (p. 16). Lord Gardiner (H. L. Debates, 1972) reflects a similar idea when he says:

[CS may be seen as a means of winning] the voluntary co-operation of [offenders] to the rules of society...young hooligans come down from London... to a seaside town and make an infernal nuisance of themselves. What could be more sensible, or more just than, if they agree, that they should be told, 'Instead of being sent to prison or fined, we are going to send you to help us with community work for this town' (Volume 333, Column 635-6).

What the Committee has been saying, it would seem, is that CS is a response primarily to the offence rather than to the offender, but that it is not the harmfulness itself - the harm in any material sense - of the offence that is important, but the principle CS expresses. It is not the 'quantum' that is important but the connection - what Schafer (1970) calls the 'nexus' - between doing wrong and doing right. The reparative 'element' in CS, it appears, is important not primarily because of the material benefit to society, and certainly not merely

for its own sake or because of the material benefit to those in need. It is rather because such an element is assumed to be related to the 'sense of responsibility', or in general to the more positive social or moral attitudes in offenders the Committee cautiously hopes will result.

It is then a short step to point out that it is clearly the principles of justice that CS expresses. The offence is wrong because it is unjust, it violates common principles of co-operation or reciprocity. It is these principles the offender has disregarded and these that service to the community or to those in need is to help him to understand.

This interpretation of the reparative aspects of CS places it squarely within the definition of the 'reparative aim' tentatively suggested earlier and, it is argued, gives support to that definition. CS, as an expression of the reparative aim, is justified not by the material benefits to the community-as-victim it provides but because of the principles of justice it expresses. Nor does the service to the state, like restitution to the individual victim, need to be determined precisely so long as the principles of justice are conveyed.

Conclusion

The conclusion must be that CS is predominantly reparative in aim in the terms of the definition of that aim proposed earlier. It was shown to be not seriously incapacitating; not sufficiently punitive, as it is presently administered, to satisfy the retributive,

denunciatory or deterrent aims; not rehabilitative in the traditional sense; and not particularly reparative in terms of the material benefits it provides to the state. It appears largely consonant with the reparative aim defined as the intent to convey principles of justice by requiring reparative behaviour, which, we argued, was the only effect of reparation plausible enough to justify it as a criminal sanction.

This conclusion brings us, however, to the question of the justification of the reparative aim (as defined) itself in terms of some statement of assumptions about the aim or aims of the criminal justice system as a whole. As indicated earlier, one can raise the same questions about criminal reparation (as Hood (1974) does) as are raised about denunciation (as Walker (1972) does): If reparation is to convey principles of justice, why is justice to be done? If the general aim is crime control, what psychological or social theory connects an awareness of such principles with law-abiding behaviour? As Hood (1974) points out, the growth of interest in reparation by offenders appears to have taken place in a social climate where there is both a rejection of deterministic explanations of misconduct in favour of a stress on individual responsibility, and a renewed concern about the 'moral degeneration' of, or the 'breakdown of social disciplines' in, society. How does reparation in general, or CS in particular, impart to offenders and to others 'that the members of society are interdependent' or promise to 'win co-operation to the rules of society'? What part does the altruistic or charitable nature of some of the CS tasks

play in doing justice? We proceed to these issues in the next chapter.

CHAPTER III: THE JUSTIFICATION OF THE REPARATIVE AIM

In the previous chapter it was argued that CS predominantly expressed the 'reparative aim', defined as the attempt to influence moral attitudes - specifically the awareness of the principles of justice - in offenders or in the public at large. It was pointed out, however, that 'doing justice' itself had logically to be justified in terms of some argument, or at least statement of assumptions, about the aims of the criminal justice system as a whole. The main task of this chapter, therefore, is to state the assumptions to be made about the aims of the system and then to outline some of the social and psychological theory supporting the aim of doing justice in sentencing.

Some preliminary remarks should be made, however, about the concept of the criminal justice system as a system. The word system implies of course a set of logically connected or functionally related parts, a hierarchy of ends and means, and it is important to be as clear as possible about the 'levels' one is dealing with, how one sees the parts fitting together, and how, specifically, sentencing aims 'serve' the more general aim or aims of the system.

Sentencing Aims and System Aims

A 'systems approach' to the analysis of sentencing aims is of course commonly implied in the literature, although often ambiguously - terms such as 'ultimate purpose', 'intermediate justifications', 'intermediate modes of punishment', 'specific

purposes', and the like are used. The approach is expressed more clearly, however, in the notions of 'limiting values' restricting the scope and power of the system and in the concept of a hierarchy of aims.

With regard to the concept of limiting values, it is often observed that the criminal justice system, and the sentencing function within it, operates within a set of competing economic, social, political and ideological values. While the system might be officially designed, for example, to provide security of person and property, it is not free to pursue such an aim at any cost - cost in material terms or in terms of social ideals. Packer (1968), for example, states that:

...the prevention of crime is the primary purpose of the criminal law; but that purpose, like any social purpose, does not exist in a vacuum. It has to be qualified by other social purposes, prominent among which are the enhancement of freedom and the doing of justice. The effectuation of these purposes requires placing limits on the goal of crime prevention (p. 16).

And Hart (1968), addressing himself to the mounting perplexities which now surround the institution of criminal punishment' (p. 1), argues that 'different principles...are relevant at different points in any morally acceptable account of punishment' (p. 3). And later he says:

The most general lesson to be learnt from this [i.e., the confusion of retribution as a general justifying aim with its role, at the level of sentencing, as a 'distributive principle'] extends beyond the topic of punishment. It is, that in relation to any social institution, after stating what general aim or value its maintenance fosters, we should enquire whether there are any and if so what principles limiting the

unqualified pursuit of that aim or value. Just because the pursuit of any single social aim always has a restrictive qualifier, our main social institutions always possess a plurality of features which can only be understood as a compromise between partly discrepant principles (p. 10).

As regards the notion of a hierarchy of aims, we saw earlier (Chapter II) that several theorists draw a distinction between justifying the aims of the criminal justice system as a whole and justifying a 'specific practice' within it. Rawls (1969), for example, distinguished the role of the legislator in establishing the 'system of values which make up the law' (p. 109) from that of the judge deciding the 'application...of these rules in particular cases' (p. 108).

Walker (1972) provides perhaps the most disciplined discussion of the aims and functioning of the criminal justice system within these terms. He states at the outset his assumption that the system is intended to serve secular goals and operate within a 'rational society'. He then proposes a series of 'aims of a penal system', argues for the selection of a specific aim ('reductivism') limited by economic considerations and the principle of humanitarianism, and then describes a series of 'techniques of crime reduction', which includes sentences, designed to serve the selected aim.

We have first, then, a conception of the institution of criminal justice itself operating within a yet larger system of social values, such values impinging upon the justice

system at all levels - the prison guard no less than the supreme court judge is required to be 'humane' and 'fair' in the administration of the law. And within the system there are clearly a series of levels of aims, with subordinate 'aims' in each case serving in fact as means of achieving superordinate aims. A sentencing 'aim' is, therefore, in fact a method from the point of view of the system as a whole, and is accordingly justified to the extent that it can be held, at least plausibly, to succeed in achieving a specified system aim.

It goes beyond the scope of this study to consider what the aims and limiting values of the criminal justice system should be - essentially a matter of social, legal, or moral philosophy. It is simply assumed here that its predominant aim is, as Walker (1972) asserts, the utilitarian one of reducing lawbreaking. It must seek to achieve this aim economically and within the scope of such social values as humanitarianism and equality of application to all citizens. The justification of the reparative aim as defined earlier thus requires that attitudes about justice - specifically an awareness of the role of justice in social relationships - are connected to law-breaking behaviour. We can now proceed to that question.

Justice and Society

It is assumed that the essential problem of any society is to achieve, within its physical capabilities and material resources, some solution to the classic political problem of achieving social order while permitting as broad a scope as possible for the development of individual potential. In our society, of course, there has been an emphasis on individual freedom and rational or 'contractual' arrangements between the individual and the state. The essential problem which threatens peaceful relationships or cooperative behaviour is the fact that the 'rewards', goods, or benefits are limited and thus, if one is to avoid resort to simple power as a 'distributive principle', and with this ultimately civil war, the society must devise rational principles by which to allocate the available goods. These are typically described as principles of justice. The task in this first section is to describe several basic justice principles, and in the process to demonstrate, on a broad social level, their function in ordering behaviour.

Equitable Justice

The principle of proportional justice, reciprocity, or equity¹

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1. These terms are used interchangeably in this study since they do not appear to be clearly distinguished in the literature, and in fact appear to have virtually the same meanings. See Chadwick-Jones (1976, p. 243) for discussion of the meaning of reciprocity as a special case of the 'principle of distributive justice'.

holds that one's rewards should be in accord with one's 'input', 'merit', or 'contribution'. In negative terms, each individual should be punished or be required to pay in some form in accord with the 'wickedness', harm, or damage he is considered to have done.

The role of reciprocity in the maintenance of order in economic, social, and political affairs in any society is well documented in the anthropological literature (e.g., Malinowski, 1970; Bohannon, 1968; Mauss, 1974; Beattie, 1964; Nader, 1975). It is also discussed extensively in sociology (e.g., Becker, 1956; Gouldner, 1960) and more recently and increasingly in social psychology (Homans, 1961; Walster & Walster, 1975; Sampson, 1975; Deutsch, 1975; Chadwick-Jones, 1976). The literature emphasizes several major themes with respect to the role of equity in society: a) It is considered of profound importance in any society, the 'vital principle' or 'all purpose plastic cement' which binds the society and preserves social stability. It is considered the first line of defence against 'exploitation' based on power or deception, and ultimately the Hobbesian war of all against all (Gouldner, 1960; Sampson, 1975). b) It pervades virtually all levels of social relationships, from those between nations through to commercial exchange and on, in increasingly subtle forms, to some of the most intimate relationships between individuals (Homans, 1961; Walster, Berscheid & Walster, 1976). c) It is extremely difficult to define. Gouldner (1960) defines reciprocity as

a 'mutually gratifying pattern of exchange of goods and services', but the complexity of the term becomes evident when such authors begin to add descriptive dimensions or qualifications. Frequently mentioned properties of reciprocity are listed below in an attempt to provide a brief and yet reasonably comprehensive description of its scope and function in society:

- a) The reciprocal exchange may be formal or informal, varying from its expression in highly structured legal and economic institutions to the most casual day-to-day courtesies.
- b) It may be 'negative' as in an offence followed by punishment or penance, or it may be 'positive' as in gift exchange, the observance of a legal contract, or in mutual promises.
- c) The exchange may be 'homeomorphic' whereby the identical values are exchanged - e.g., 'a tooth for a tooth' - or heteromorphic in form, where the values involved in a trade take quite different forms.
- d) The exchange may be compelled by an authority external to the parties, or voluntarily entered into.
- e) Although the principle of reciprocity is held to be culturally universal, the content of any reciprocal exchange can show virtually infinite variations across cultures. As Walster & Walster (1975) observe, the work of several investigators:

...makes it evident that somewhere, sometime, people have assumed that almost any input legitimately entitled its possessor to reward. Regardless of which input society believes relevant in a given situation, the same theoretical frame work - equity theory - predicts when men will feel equitably or inequitably treated and how they will respond to their treatment (p. 29).
- f) The calculations of the values in any exchange, is, however, immensely complex and hinges on a wide variety of factors; e.g., the relative status or power of the parties, the rarity of the rewards or goods under consideration, and the motivation or need of the parties.

- g) Conformity to behavioural norms is generally regarded as valued 'input'. Indeed, it has been shown that an individual may accumulate a store of good will or 'idiosyncrasy credit' (Hollander, 1969) such that he will be permitted to deviate to a point where his demands for tolerance equal his 'credit'.
- h) Reciprocity may be conceived at several levels of abstraction; e.g. the existential, as in 'we are all born in debt' (Boss, 1972); the moral, as in 'we should repay our debts, cooperate, deal fairly, etc.'; the material or physical, as in the exchange or restoration of goods or services; and the emotional, as in mutual psychological support, or, negatively, the seeking of revenge.
- i) Further, different terms are typically applied to different levels of an exchange. At the moral or, for some, the religious or mystical level, equity tends to be expressed as retribution, expiation or atonement; the wrong-doer must suffer in order to redeem himself. At the material level, terms such as reparation, compensation, and restitution are used, but service of some sort which is recognized as a value by the recipient also appears. At the emotional level, one is considered entitled to obtain satisfaction or revenge.
- j) The reciprocal or equitable nature of an exchange may be explicit and openly acknowledged or it may be implicit and even denied. This renders accounts of the operation of the principle of equity, in Homans' (1961) view, as an 'intellectual chaos', paradoxically both familiar and poorly understood. The implicit but often unacknowledged or taken-for-granted quality of equity is expressed by Malinowski (1970) when he says:

Though no native, however intelligent, can formulate this state of affairs [the reciprocal principle governing the exchange of social obligations] in a general or abstract manner...everyone is well aware of its existence and in each concrete case can foresee the consequences (p. 42).

The essential point, then, is that the principle of equity or reciprocity thus functions as a flexible 'general moral norm' (Gouldner, 1960) or 'species norm' (Homans, 1961), culturally universal and primordial in its origins. Its complexity, the ambiguity associated with the assessment of

values, as well as the necessary time-lag between giving and receiving, all provide material for extensive dispute. These factors also function positively, however, by making it forever unclear as to who is in debt to whom and to what degree. We thus live in what Mauss (1974) called the 'shadow of indebtedness' - an enduring, pervading, and powerful system of mutual obligation, and the essential basis for social order.

Equal Justice

This principle holds that rewards should be distributed equally among all participants in an exchange and is associated with a collectivist rather than competitive approach to social organization (Sampson, 1975; Deutsch, 1975). The principle is expressed in such slogans as 'all men are created equal', 'share and share alike', and 'equal opportunity for all'. Such values, and in general the notion of inalienable political rights, are of course among the commonly expressed ideals of social, political, and industrial democracy.² In criminal justice it is expressed in the principle of 'equality before the law' and in the desire for consistency in sentencing.

2. See Honoré, (1968) for an analysis of the meaning of 'social justice' in terms of several principles of justice. Pertinent here is his remark that the concept of social justice, on which 'social stability' depends, rests on the notion that all 'men have a claim as men to those advantages which are necessary in order that a decent and full life may be made possible...all men have an equal claim to such advantages' (p. 82).

The 'Justice of Need'

The concept of the 'justice of need' or 'need-based justice' is often used to describe the situation where there is a transfer of benefits but where there is no discernible 'exchange', no apparent 'return' to the giver. This form of justice appears virtually synonymous with what is usually thought of as altruism, charity, humanitarianism, or 'social justice' (Honoré, 1968; Deutsch, 1975; Sampson, 1975).

There is indeed controversy as to whether such a transfer of benefits is in fact an 'exchange', representing in any sense a principle of justice, even though a distribution or allocation of benefits occurs. Some (e.g. Schwartz, 1975) argue that altruism or humanitarianism are best conceived as learned social norms activated in certain circumstances. The charitable donor is to all appearances content with 'virtue as its own reward'. The less fortunate are to be assisted not because they may some day be able to pay in some manner, nor in order to assist them to become better citizens, and not even to provide satisfaction or enhance the social status or 'mental health' of the giver, but simply because it is right. The pure altruist, as it were, transcends justice, or at least renders it irrelevant.

Others, however, (e.g. Walster and Walster, 1975) argue that the justice of need is simply an extension of the notion of equity, and that there is in fact an 'exchange' if the 'need' of the beneficiary is conceived as a form of 'input' warranting a response from those able to respond. Whatever the merits of

such an argument, the equity theorist can point out, as we noted earlier, that equity can be expressed at several levels of abstraction and in extremely subtle ways. He can observe that 'pure' altruism, along with Christian love, if it exists at all is the rarest of things. He can point to elements of reciprocity, of 'conditions', in almost any relationship, and of a 'return' of some sort to the giver, be it ever so remote in space and time and be the giver's motives ever so sublime. The 'altruistic' giver in these terms is not he who is completely selfless, but he who realizes he is not 'an island unto himself', and who recognizes the interdependence of all men and hence their responsibility to each other.

Community Service as Justice

In the context of the discussion of such idealistic forms of the equity principle, it is useful to stop to consider in what sense CS expresses the various principles of justice. It will be recalled that we argued that CS was in fact intended to be of material benefit to the society. To the extent therefore that it is so, CS can be seen as an expression of the principle of equity on a material plane, i.e., as reparative. It was acknowledged, however, that the material benefits entailed in CS, at least within the present limitations of this sentence to 240 hours, probably did not significantly repay the usual total cost associated with a crime. But the more important argument was that it was not essential that the material values balance in any precise way. For reparation to be justified as a criminal sanction, it was argued that it was necessary

only that the principles of justice be adequately expressed or effectively conveyed. It was pointed out here that CS - often presenting the spectacle of a chronically exploitive or 'hardened' offender performing manifestly altruistic tasks - embodied a powerful symbolism missed by few. CS might be justified on several grounds, but the loudest refrain seemed to be that the offenders were 'giving something back to society.'

It will be seen here, then, that to the extent CS is perceived as 'altruistic' behaviour after wrongdoing, it is most consistent with the concept of the justice of need - defined here as the expression of equitable justice on a relatively abstract or symbolic plane. The enthusiasm with which CS was widely accepted can be seen as in good part due to its appeal to ideals, ideals of social justice. That is the 'ideological appeal' Hood (1974), for example, would appear to be talking about. The unique appropriateness of CS, interpreted in this way, as a response to crime would seem evident. The concept of crime is after all an abstract or ideal concept - the victim is not to be an island unto himself in the sense that his hurt is in principle a hurt to all. The job of the reparative sentence, as argued earlier, is not to assist the individual victim of crime, but rather to vindicate the principles of justice the crime violates. One could hardly design a sentence more suited to that task than CS, nor, considering the significance of equity for society, could its appeal be less surprising.

Interactions Between the Principles of Justice

It is almost unnecessary to say that the principles of justice described above mix, interact, and limit each other in extremely complex ways. The principle of equity serves as the 'master principle' governing social relationships, determining behaviour by offering rewards in accord with contributions or, on the other hand, imposing punishment in accord with deserts or requiring some form of reparation in accord with the harm done. By the same token it is associated with individualism, personal freedom, and an emphasis on competition, production and 'progress' (Sampson, 1975). The individual who receives according to his contribution clearly has control to that degree over what he will receive.

The negative aspects of the competition are, however, apparent: There will be 'winners' and 'losers', with the winners necessarily assuming more and more power as a result of their acquisition of the benefits or rewards in a society. This may be expressed in elitism, and, further, many theorists argue that those groups who gain economic, social and political power will tend to promulgate the social values which serve to vindicate and thus maintain their favourable position (Nader, 1975;

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Sampson, 1975; Walster and Walster, 1975). In this situation the justice of equality acts as a competing method of determining the 'values' in an exchange and curbs the ability of the powerful to 'corner the market'. All have an equal right to certain benefits regardless of their input. Specifically within the economic sphere, some (e.g., Sampson, 1975) argue that while the principle of equity was embraced by 'the marketplace economic system of western capitalism' (p. 51), the justice of equality more truly promotes 'communion' and co-operation between individuals and, ultimately, between nations.

The two principles thus conflict, one offering 'security' and the other freedom to determine one's own outcomes. In practice the choice will often depend on various situational factors - e.g. whether 'production' or 'fellowship' is the goal of a social relationship - or a compromise will be struck.³

The 'justice of need', for all its idealism, also conflicts with the freedom of the recipient to determine his own rewards. The weakness of the principle rests on the fact that the capacity to give without demanding a commensurate return implies independence and power on the part of the giver relative to the receiver; hence, receipt of a gift is inimical to the recipient's desire for autonomy and equality. As Mauss (1974) put this familiar notion: 'Charity wounds him who receives'. So important

3. See Deutsch (1975), Honoré (1968), Nader (1975), and Sampson (1975) for discussions about the conflict between the principles of equity and equality, and about the variables determining the choice between them.

is it to 'save face', to keep one's pride or dignity, that a recipient may claim that he has a right to a certain benefit as a matter of equality (as children have a right to care), or that he has already earned the benefit (as may be claimed by the elderly), or of course that he will repay the gift in some way and at some point.⁴

Justice and Psychological Theory

Up to this point we have been sketching the significance of the principle of justice for a society as a whole. As Homans (1961) so cogently argues, however, 'institutional' norms should be consistent with 'sub-institutional' norms; there must be a coherence between the principles governing general social norms and the psychological principles which govern 'elementary' social behaviour.⁵ The justification of a

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4. It is relevant to recall here the argument of the retributivist that punishment according to deserts is the only principle which adequately protects individual liberty or shows sufficient regard for 'human dignity'. Retributive punishment is, in the present context, simply a negative form of equity, and to the extent an offender can control the incidence or seriousness of his law-breaking behaviour, he can control the power of the state over his freedoms.
 5. Homans argues that social institutions arise as a response to basic or 'elementary' human problems or needs and that, accordingly, varying degrees of social disruption and conflict result when such institutions cease to be functional, when institutions, so to speak, 'let people down'. For an example which gives support to Homans' thesis in the area of legal institutions, see Nader (1975).

sentencing aim therefore requires that it be consistent not only with general social norms but also that it be defensible in terms of psychological principles governing inter-personal behaviour.

In the space available only brief discussions of those areas of psychological theory which appear the most relevant to the question of the role of justice in individual attitudes and behaviour are given. Three areas of psychological theory are described: the 'moral model' in psychopathology, social exchange or equity theory, and moral development theory.

The Moral Model in Psychopathology

The 'moral issue' - whether behaviour is to be 'understood' or to be 'judged', and in what proportions - divides psychologists of course no less than it does penal philosophers, parents, and anyone else required to respond in some way to behaviour. The purpose here is therefore simply to draw attention to some of the arguments of the 'moral psychologists' (and psychiatrists) about the appropriate response to 'pathological' behaviour.

The moral position in psychopathology has been argued increasingly vigorously in the last two decades as a reaction to the determinism implicit in behaviourism and in psychoanalysis. In psychology, O. H. Mowrer (1960, 1965, 1972a) argues that the age-old concept of sin is indeed preferable to the notion of 'sickness' in the treatment of any unsocial, maladaptive, or 'neurotic' behaviour. In Mowrer's words,

'conscience is the sentry we hire to remind us of our contracts'. The 'guilt' of neurotics is in his view entirely normal; such individuals, he holds, fail to accept reasonable responsibility for their acts or to assume appropriate independence.

In psychiatry, Thomas Szasz (1960, 1970) has long argued that the concept of psychological illness is a 'myth', and that it represents a possibly well-meaning but misguided attempt to interpret potentially all human behaviour in deterministic terms. The concept of mental illness is essentially amoral, and provides an impersonal 'thing' as an explanation for what Szasz prefers to call 'problems in living'. Such problems should be solved, he argues, by the application of intelligence, patience, persistence, hard work, and an acceptance of reasonable responsibility for behaviour.

When wrongdoing occurs, the moral psychologist or psychiatrist therefore demands of the transgressor an appropriate moral response. The argument is that such a demand, far from being simply 'repressive' and leading to the 'substitution' of other 'symptoms' of a basic 'illness', is not only consonant with the wrongdoer's improvement in psychological as well as social terms, but essential to it. And, although simple confession and acknowledgment of wrongdoing may be both sufficient and practical for most minor transgressions, some effort toward reparation or restoration of the status quo ante is frequently required. If such reparative efforts fail, these psychological theories predict that the

wrongdoer will suffer the pangs of painful but wholesome guilt, and will need to resort to increasingly hypocritical and dishonest rationalizations, 'defences' or 'subterfuges' (see, e.g., Wright, 1971). If the individual fails, without justification or excuse, to observe his responsibilities or duties his rewards or rights will be withdrawn. He breaks the 'contract' by which he is connected or bound to others, and one result is a sense of 'alienation' or separateness.⁶ As Mowrer (1972b) puts it, we 'kill our conscience' at our peril.

Strong emphasis is placed in this approach on the individual's actions rather than on his intentions or his feelings. Thus Mowrer, as suggested earlier, describes the well-intending but guilt-ridden neurotic as quite normal in his feelings - he has plenty to be guilty about! - but simply immoral in his behaviour. Fromm's (1956) definition of love in terms of caring and responsible behaviour, Cleckley's (1955) emphasis upon moral acts (or rather their absence) in diagnosing

6. There is a rich literature applying the concept of alienation to the explanation of social behaviour in general and to crime and delinquency in particular. Its most basic meaning is that of psychological separation or isolation of the individual from his community. The term has been used in almost innumerable areas of social theory and it is difficult to give it a precise meaning. Indeed, its usefulness for scientific purposes has been questioned (Johnson, 1973). Several theorists have, however, made attempts to describe it in terms of several components (Srole, 1956; Seeman, 1959; Gould, 1969; Dean, 1961; Neal and Rettig, 1967). For an analysis of delinquency in terms of several aspects of alienation, see Gold (1969). For an application of the concept in the treatment of delinquency, see Sarata (1976).

psychopathy, and Garofalo's (1914) refusal to parole offenders unless they could show that they had actually paid a portion of their prison earnings for the benefit of their victim, are all consistent with this principle. But though actions on the part of the wrongdoer may be necessary as a response to his wrongdoing, they are not considered sufficient. A moral response also requires an internal or subjective acknowledgment of debt.

With regard to empirical support for the moral model applied to disordered behaviour, Maher expressed the opinion in 1966 that the approach appeared to provide no clear basis for systematic investigation of its hypotheses. Since that time, however, Johnson, Dokecki, and Mowrer (1972) have presented evidence supporting Mowrer's hypotheses. 'Insecurity' - shyness, anxiety and withdrawal - in children has been shown to be related to undersocialization, and not with oversocialization as Freud held (Peterson, 1972); and anxiety or psychological disturbance in University students over their sexual behaviour was found to be associated not with 'inhibited' sexual behaviour, but with sexual behaviour which violated the prevailing norms for their sex (Swenson, 1972a, 1972b).

Social Exchange Theory

Social Exchange or 'equity theory'⁷ has assumed a central

7. The distinction between the two terms is by no means clear in the literature. 'Social exchange theory' is doubtless the older term and is still (continued)

place in psychology in the last few decades. Its essential concern is the formulation of principles which will explain and predict the attitudes and behaviour of individuals in any social situation, i.e., any situation involving contact or exchange of values - rewards or benefits, and punishments or detriments. The individuals involved in an exchange are typically referred to as 'harmdoers' (or 'exploiters'), 'victims', and 'observers'; we will be concerned here particularly with the effect of equitable behaviour on the attitudes of the wrongdoer rather than on others.

The systematic investigation of the attitudinal and behavioural effects of equitable exchange would seem to have begun with Homans' (1961) work. He states five propositions, the first four of which, as Chadwick-Jones (1976) points out, are virtually a direct reflection of conventional reinforcement theory, and express Homans' desire to ground his social psychology in general behaviour theory. These propositions state that behaviour tends to recur if it is rewarded, that it will occur more frequently

widely used. According to Chadwick-Jones (1976) it refers to 'a collection of explanations, propositions, and hypotheses, embodying certain general assumptions about social behaviour'. The term 'equity theory', however, would seem to have gained in popularity and stresses the concept of equity as the fundamental principle governing social relationships. Its scope, however, is seen as, at least potentially, extremely broad (Adams and Freedman, 1976), and it is therefore difficult to distinguish it from social exchange theory in general. See particularly Homans (1961). For recent comprehensive summaries, see Chadwick-Jones (1976), and Lerner (1975).

the more frequently it is rewarded, and more frequently the more valuable the reward provided. 'Propositions V' is Homans' contribution to behaviour theory. He states it as follows:

The more to a man's disadvantage the rule of distributive justice fails of realization, the more likely he is to display the emotional behaviour we call anger (p. 75).

It is not only the victim however, who may be upset over an unjust exchange. Homans adds that:

Distributive justice may, of course, fail in the other direction, to the man's advantage rather than to his disadvantage, and then he may feel guilty rather than angry: he has done better for himself than he ought to have done (p. 75-6).

His essential point in his extension of behaviour theory is that we tend not only to assess obligations and rewards as they are, but we also form expectations as to what these ought to be.

Homans' proposals about the significance and pervasiveness of the equity norm appear to have been amply justified and much extended in ensuing research.⁸ Walster, Berscheid, and Walster (1976) argue that equity theory is now advanced to the point where they can postulate several basic propositions. Homans' Proposition V finds expression in their Propositions III and IV, i.e., that:

When individuals find themselves participating in inequitable relationships, they become distressed.

8. For a recent brief review and extensive annotated bibliography see Adams and Freedman (1976).

The more inequitable the relationship the more distress individuals feel...and they attempt to eliminate their distress by restoring equity. The greater the inequity... the more distress they feel, and the harder they try to restore equity (p. 18).

With regard specifically to the reactions of the harmdoer, these theorists postulate that the feeling of distress may take two forms: a) 'retaliation distress' stemming from the fear that 'the victim, the victim's sympathizers, legal agencies, or even God will restore equity to the harmdoer/victim relationship by punishing the exploiter' (Walster, Berscheid, and Walster, 1976, p. 8); and b) 'self-concept distress' stemming from the feeling in the harmdoer that he has violated his own ethical principles, his concept of himself as a fair or reasonable person who abides by social norms or expectations. In short, he may feel a sense of guilt.⁹

The research appears to demonstrate that the distress ensuing from behaviour which an individual wrongdoer acknowledges to be unjust¹⁰ will generally be so acute that he may

9. The authors acknowledge that whether an individual feels distress due to an internal sense of guilt or responsibility for his wrong-doing, or simply due to fear of retaliation, will vary considerably according to the personality of the wrongdoer. The best known 'amoral' personality type is of course the psychopath.
10. Whether he does so will depend upon a number of factors, some of which we indicated earlier in our description of the general function of equity in society. As Homans (1976) points out, the parties to an exchange must not only agree on the rules determining the exchange but also on what kinds of input are to be taken (continued)

well go to rather extreme lengths to preserve the notion that his behaviour is not in fact unjust. In general, Walster, et al (1976), argue that the harmdoer has two major alternatives: a) to compensate his victim in some manner, or b) to justify his behaviour on some grounds. The first is a matter of restoring 'actual equity', which may take several forms - from material payment to apology (which at least acknowledges the victim's moral claim and superior moral position). The second - justification of a wrong - is intended to restore 'psychological equity', and also may take several forms: i) derogating the victim whereby the victim is considered in any event to have 'deserved' the exploitation suffered; ii) minimizing the suffering; or iii) simply denying responsibility for the act.¹¹

Walster, et al (1976), point out, incidentally, that the alternate responses of compensation and justification appear

into account and how these are to be evaluated. There seems to be little difficulty in obtaining agreement on the principle that justice should prevail, but, perhaps not surprisingly, frequently there is little agreement on the other problems, the problems of the content to be considered, and the values to be applied.

11. These are of course familiar as rationalizations to avoid responsibility for wrongful behaviour. We saw in the previous section that the neurotic is regarded by some theorists as someone who is exploitive but who makes excessive, habitual and unreasonable use of such devices. He may feel guilty, but fails to do anything about it. See Sykes & Matza (1957) for a description of several 'techniques of neutralization' whereby delinquents tend to rationalize their offences.

to be negatively correlated. It appears a wrongdoer would rather opt for one or the other, and his choice will depend in part on the adequacy of the responses available to him. If the amount of damage is not too great, if he considers adequate repayment to be within his ability, then he may well choose this option. But if he considers the amount quite beyond his means, then he may reject the notion of compensation entirely and resort to justification of the wrong. However, if the justification, in turn, threatens to require a serious distortion of reality - for example if the victim is well known to the harmdoer as a reasonable and blameless person in the exchange - then the 'costs' of such rationalizations will tend to prevent their use. But what is 'reasonable'? What is a 'distortion of reality'? How easy it is to find fault with the victim, and worse - in perhaps an increasingly desperate bid to justify the harm - to consider the victim as deserving of yet further harm.

In the context of criminal justice, it is particularly relevant to note the evidence that a wrongdoer may resort to distortion when adequate, appropriate, and feasible means of compensation are not available, and further that such distortion may bring with it the potential for additional injury to the victim; i.e., if the victim is indeed considered to have 'deserved' his fate, it seems it is psychologically a short step to consider him as deserving of further harm. A victim who fails either to retaliate or to demand reparation tends to

be regarded as both weak and unworthy. The implication is of course that any society which fails to provide offenders with reasonable opportunities or methods for compensating those harmed by offences arguably increases the likelihood of further crime. As Walster, et al (1976), put it:

Any society has a vested interest in encouraging harmdoers to voluntarily compensate their victims rather than derogating them. If a harmdoer refuses to make restitution, the victim is left in sad straits. Not only has he been deprived of material benefits which he deserves, but he must face both the indignity of derogation and the added difficulty that the harmdoer, because of his derogation, may continue to treat him unjustly...societies should naturally prefer that their citizens restore actual equity after committing injustices rather than engage in a series of justifications which end in shared bitterness and possible further harm-doing (*Italics in the original*) (p. 38).

The developments in social exchange theory to date, then, appear to be quite consistent with the arguments of social theorists given earlier as to the vital importance of maintaining justice in interpersonal relations. When injustice is done, the theory holds - supported by some evidence - that distress is caused not only to the victim of the unjust act but also, barring psychopathy, to the harmdoer himself.¹²

12. As mentioned at the beginning of this section we have focussed attention on the feelings of the harmdoer in this account. With respect to the victim, his first attitudinal reaction, according to Homans' (1961) theory, is one of anger or resentment; and (barring forgiveness) his first demand is for some form of compensation or restitution to restore the 'balance' between (continued)

Moral Development Theory

The development in the individual of moral attitudes and behaviour - conscience or the 'moral sense', appropriate guilt, resistance to temptation, and ultimately altruism - has been described by some psychologists as the fundamental concern of social psychology (See, e.g., Kohlberg, 1963). The topic has been the subject of various theoretical approaches, particularly the behaviourist, the psychoanalytic, and the cognitive developmental (Wright, 1971; Graham, 1972). It is the last of these approaches, however, which appears to have been the most successful in explaining and predicting moral attitudes and behaviour (Kohlberg, 1963; Berg & Mussen, 1975; Tapp & Levine, 1974). It addresses itself directly to the development of rational constructs or principles as guides to

the parties to the exchange. Homans (1961) postulated that the aggressive reaction could be interpreted in terms of the 'frustration-aggression' hypothesis (Dollard, Doob, Miller, and Sears, 1939). The victim experiences frustration at being deprived of the rewards or possessions he feels 'justly' entitled to. If, however, restoration of an equitable exchange (actual equity) is not possible, nor retaliation feasible due to the power of the wrongdoer and hence the 'costs' of such an option, the victim, like the harmdoer, is left only to rather distorted ways of restoring psychological equity. He may rationalize his position so that he feels that in fact he 'deserved' the treatment received, and may for example accept an inferior position in relation to the wrongdoer. He may also leave the field, avoiding further contact with the wrongdoer. As regards the attitudes or behaviour of observers, Walster, *et al* (1976) present evidence that although their sense of distress may of course be much less than that of the parties involved, there is frequently an attempt to restore equity or see that 'justice is done' by various forms of intervention.

behaviour, specifically the principles of justice.¹³

The essential argument of the cognitive psychologists is that attitudes and behaviour are explainable in terms of constructs based not on observable or 'surface' behaviour but on the underlying concepts or assumptions the behaviour reflects. The earliest attempt to explain behaviour systematically in terms of the development of increasingly differentiated and integrated rational principles appears to be that of Piaget (1932). With regard specifically to the development of notions of punishment and justice, Piaget presented children with hypothetical situations involving these concepts and invited comment. He postulated that the child moves from a conception of rule enforcement based on arbitrary, external authority, and unbridled expiatory punishment (up to about the age of seven or eight) to increasingly ideal notions of reciprocity and co-operation. The child gradually learns a sense of give and take, begins to adopt equalitarian relationships with his peers, and is increasingly able to take into account extenuating factors and motivations when deciding upon an appropriate response to rule infraction. The transition from stage to

13. Berg & Mussen (1975) cite an unpublished paper by Lawrence Kohlberg as follows: 'The principle central to the development of moral judgement...is that of *justice*. Justice, the primary regard for the value and equality of all human beings and for reciprocity in human relations, is a basic and universal standard' (Italics in the original).

stage is accounted for by Piaget on the basis of gradual change in the child's cognitive capacities - his increasing capacity to think in terms of 'formal' or abstract concepts - and secondly on his social experience - his interaction with peers and parents or other authority figures, particularly his opportunities for reciprocal role taking.

Beginning in the early sixties there was a revival of interest in Piaget's theories, and Kohlberg (1963, 1969) would seem largely to be given credit for the most ambitious attempt to elaborate and expand the cognitive approach to moral development. Kohlberg postulates three general levels of development (containing two 'stages' within each level) roughly reflecting Piaget's system.¹⁴

With specific reference to the development of notions of justice, at the lowest or 'pre-moral' level the individual's relationships with others are determined mostly by perceived differences in power, status, or possessions. There is no true moral obligation to others based on a recognition of the rights of others nor any true respect for authority, only what Wright (1971) describes as a 'conforming deference to those who have the power to punish'. The next level is referred to by Kohlberg (1963) as the 'morality of conventional

14. Although he acknowledges his debt to Piaget, Kohlberg (1963) points out several differences between his and Piaget's ideas.

role-conformity'. This involves an awareness of the needs and rights of others; the desire of the individual is either to maintain his position as a 'good boy' or 'good citizen' which will win the approval of others, or to comply with the demands of social authorities. Notions of justice appear as guides to interpersonal exchange and there is 'an active concern for the social goals behind the rules' (p. 25). At this 'intermediate stage' of development, however, behaviour is still determined largely by forces external to the individual, and while the individual may conform not simply to avoid punishment or manipulate authorities as he would at the first level, his motive is to maintain the rules rather than to create or develop them. Greater creativity comes at the third level, where there is increasing flexibility and a capacity, as it were, to 'play with' the rules. In Kohlberg's terms this level reflects the 'morality of self-accepted moral principles'. The individual here is much more concerned with the general notions of contract and of democratic principle, and ultimately with yet more abstract notions of universal human values.¹⁵

In view of the general purpose of this chapter - the justification of doing justice as a means of influencing

15. For a particularly dramatic application of Kohlberg's levels of moral development to the analysis of a 'real' situation - the behaviour of three different soldiers involved in the My Lai massacre of non-combatants in Vietnam - see Kohlberg & Scharf, 1972.

behaviour - it is important to include a note as to how the growth of moral attitudes, how the transition from lower to higher stages, is held to be achieved. According to Berg and Mussen (1975), there is little evidence to support Piaget's hypothesis that authoritarian parental control in itself inhibits moral development, nor is there evidence that mere experience with, or popularity among, peers will promote development. What does seem to be of significance - and this is stressed particularly by Kohlberg - is the child's apprehension of situations involving conflict of moral principles. If interaction with parents or peers induces the child to put himself 'in the place of others', the child is encouraged to understand a situation from another's point of view. The emphasis is thus on reciprocal role taking and the participation of the child in solving moral problems. The significant factor, the theory argues, is the child's experience in perceiving and resolving conflicts, in maintaining cognitive equilibrium or consistency when two principles conflict.

The question arises whether the individual must consciously understand the different principles which may apply to a situation and appreciate conflicts between them. First, it might be noted that the developmental stages are associated with age and at least to some extent with intelligence (see Wright, 1971, p. 162). Further, all else equal, child rearing techniques of a 'corrective' or 'inductive' nature - reasoning, explaining, yet with demands for

responsibility on the part of a child for his behaviour - and which focus upon the consequences of the behaviour for others appear to be the most effective in promoting social behaviour and conscience development, and preventing delinquency (See, for example, Wright, 1971; Hoffman, 1977, McCord & McCord, 1956; West & Farrington, 1973, Elder, Jr., 1968). There would appear to be some evidence, then, that it is important not only that the individual interact with peers or enjoy role-taking opportunities requiring that he consider conflicting solutions to a problem, but also that he have some awareness of the nature of the conflict, i.e., of the fact that different sorts of moral principles may be involved. It would therefore seem that it is important that the consequences for wrong-doing somehow communicate the principle being followed.

In summary, the cognitive development approach to moral behaviour postulates that individuals formulate increasingly differentiated and integrated conceptions of the rules governing their relationships with others. There is held to be growth from a stress on power to a stress on rational principles, from a conception of exchange in terms of the concrete and immediate to the abstract and long term, from the rigid application of rules to the flexible and creative, and from simple obedience to appropriate conformity based on increasingly ideal notions of justice or mutual obligation between all human beings. Growth from stage to stage is held to occur most

reliably if the individual has opportunities to participate in solving conflicts and understands the process.

Summary

The essential purpose of this chapter has been to justify doing justice as a sentencing aim, and in the process provide the necessary theory for the formulation of hypotheses about the effects of CS. It was pointed out first that, from the standpoint of the criminal justice system as a whole, sentencing 'aims' were in fact methods of achieving the general aim or aims of the system. Since crime reduction was assumed to be the aim of the system - however limited by competing social values - the task was to present argument which would provide at least plausible support for the assertion that an awareness of the principles of justice was positively related to co-operative social behaviour. To this end two general levels of theory were sketched. It was argued first, in broad social terms, that the justice principles, as the fundamental rules governing the exchange of benefits, are of profound significance in the regulation of behaviour. When goods and resources are scarce and cooperation is essential for survival, rules for determining the reciprocal claims of one person upon another, and of ensuring that obligations are recognized and honoured, are clearly required. It was observed that doing justice may take a variety of forms - from retaliatory punishment through material compensation to the exchange of 'gifts'. But however justice was

done it seemed vital that it be done - a balance must be restored if not in whole then in part, if not in fact then at least in principle, at least symbolically. Here, the unique appropriateness of CS as a symbolic expression of the principles of justice, particularly when the work is of a manifestly charitable sort, was noted. In general, the theory suggested that the first response of a society - particularly the response of the criminal courts - to exploitive or 'unjust' behaviour, once the injustice has been duly ascertained, is to reassert effectively the principles of justice.

Turning to the individual psychological level, it was pointed out that the 'moral model' in clinical psychology suggests that as a general rule individuals must be held accountable for their actions if they are to achieve a reasonable level of social functioning - a set of attitudes enabling them to cope with conflict or deprivation, and to interact constructively with others. Exchange theory pointed to essentially similar conclusions: If the individual maintains a reasonable degree of equity in his exchanges with others - pays his debts, rights his wrongs, returns 'gift' for 'gift' - he ensures continuing contact, and experiences a sense of integration with others. He is 'rewarded' with a measure of freedom and gratification of his needs. And finally the argument of cognitive developmental theory was that in general an understanding of the cognitive constructs underlying behaviour provides the most reliable guide to understanding the behaviour. It states specifically that social behaviour can be

usefully understood as an expression of one or more of several 'levels' of justice principles. It also suggests that our response to wrongdoing ideally should communicate principles of justice in a way appropriate to the stage of moral development of the wrongdoer,¹⁶ permit him a chance to participate in the settlement of conflicts, and in the process teach him to apply increasingly effective moral solutions.

16. 'Appropriate to the stage...' here does not necessarily mean at the current stage of the wrongdoer. Turiel (1966) found that school children presented with a moral dilemma tend to choose a moral solution one stage above their current one when provided with several options.

CHAPTER IV: COMMUNITY SERVICE AND SENTENCING THEORY

It was pointed out in Chapter I that CS appeared to be a provocative sentence from the point of view of sentencing theory. There was considerable emphasis in the literature on the fact that CS 'reconciled' a number of sentencing aims. Thus the Wootton Report suggested that the various aims, including 'punishment to fit the crime' and 'help and support' for the offender were 'by no means incompatible' (p. 13). Presumably the committee was not suggesting that the retributive and rehabilitative aims were indeed compatible in principle. It is more likely that they were simply pointing out that CS was a most 'versatile' sentence; i.e., one which could be used to achieve several aims simultaneously without bringing them into conflict. This interpretation would be in keeping with the pragmatic approach the committee endeavoured to take. As indicated in Chapter I, however, it is hardly necessary to observe that the retributive and rehabilitative aims have heretofore been considered to be anything but compatible in principle or in practice. They rest on diametrically opposed philosophical and psychological assumptions and of course this fact has given rise to the central debate about the proper aims of sentences. Our third criticism of the literature to date, therefore, was that the apparent reconciliation of the rehabilitative and 'punitive aims' had not been adequately explored.

Before proceeding with the empirical work, then, we take up here the question of to what extent and in what way CS reconciles erstwhile conflicting sentencing aims. Since CS was interpreted as predominantly reparative in aim, the bulk of the chapter consists of an analysis of the relationships between the reparative aim and the various traditional sentencing aims. The retributive aim in its several forms (i.e., 'pure', 'distributive', and 'limiting') is, however, omitted since we have assumed the utilitarian aim of reductivism as the general aim of the system, and we are not concerned here with the problem of restricting the scope or severity of sentences. Further, we will deal particularly with the relationships between reparation and a) denunciation and b) rehabilitation since these (once retribution is left out) become the two conflicting utilitarian aims reparation is said to reconcile. We shall then be in a position to argue that CS makes a useful contribution to sentencing theory.

An Analysis of Sentencing Aims

First, let us examine the traditional utilitarian sentencing aims - denunciation, deterrence, rehabilitation, and incapacitation - in order to try to determine what the basic attributes of sentencing aims are. It is apparent at once that as a typology for the description of sentencing aims, the conventional list is multi-dimensional; i.e., the aims differ from each other in several ways. For example, deterrence may be intended to influence the attitudes or the behaviour of the public or of the offender concerned or of

both, while rehabilitation is intended to influence only the offender concerned. Thus, these aims differ in the 'target' of the aim - who is to be influenced by the sentence. Incapacitation differs from the others in the means employed to effect a change in behaviour; incapacitation relies of course on external physical control over an offender's freedoms or capacities, while the other aims attempt to influence his attitudes or feelings. Each aim is indeed characterized by a cluster of attributes, some of which may be true for one or more of the other aims listed.

A proper understanding of the relationships between the several aims requires, therefore, that we make some attempt to isolate the different aspects or dimensions on which the aims differ. Listed below are a number of dimensions, presented as dichotomies for the sake of simplicity, which seem to be the essential ones usually employed in the description of sentencing aims:

- a) Basic Social Control Method. There would seem to be two fundamental methods of controlling or influencing behaviour - by physical force or by inducing the individual by one means or another to control his own behaviour. We may (i) physically limit an offender's freedom, or (ii) influence his attitudes.¹ No doubt virtually all behaviour is kept under control as a result of the immensely complex interaction between these two basic methods. The common distinction between custodial, semi-custodial, and

1. The concept of attitude is discussed in Chapter VI. It is now generally defined in terms of several components: specifically, feelings, evaluations of (continued)

non-custodial sentences is a reflection of this dimension.²

- b) Basic Psychological Rationale. The attitudes of offenders or potential offenders may clearly be influenced either by an appeal to rational principle, cognition or understanding, or by addressing emotional needs, fears, and the like.³
- c) Direction of Sanction. For want of a better title, this is meant to refer to the distinction between punitive or 'negative' and non-punitive or 'positive' sentences. The latter would include the use of 'rewards' in the sense of the use of assistance, support, etc., but 'non-punitive' is broader and sufficient for the present purpose.
- d) Target of Sanction. This refers to the distinction between sentences which aim to influence the attitudes or behaviour of the public or potential offenders and those which aim to influence the attitudes or behaviour of the offender who is the subject of the sentence.

situations, and action tendencies or dispositions. In ordinary usage, the evaluative aspect is relatively frequent, and we are not used to thinking of feelings as involved in attitudes. The term is, however, used in the broad sense here. It should be noted particularly here that to cause an individual to be fearful or afraid of acting in a certain way (i.e., to deter him) is to influence his attitudes.

- 2. For a study which explicitly selects attitude change as an aim of the sentencing of driving offenders, see Willett (1973). Willett also investigates the effect of disqualification of an offender's driving license, which is a good example of a non-custodial sentence which attempts to control behaviour to some degree as well as to change attitudes.
- 3. This dichotomy reflects the concept of levels or stages of moral development discussed in Chapter III. It is also consonant with Fuller's (1964) distinction between the 'morality of duty' and the 'morality of aspiration'.

- e) Attitudinal Specificity. This dimension measures one aspect of the content of an attitude. Some sentences aim to influence general attitudes (e.g., attitudes to the law, to the social order or 'society' in general, moral principles, others in general), while other sentences aim to influence relatively specific attitudes (e.g., to the committing of certain offences, to the police, the court, the school, etc.).

Each dichotomy, of course, represents a familiar conflict in sentencing: whether to 'work with' an offender or to 'protect the public'; whether the court is to be a 'morality play' primarily for the moral education of the public, or a 'clinic' for the treatment of offenders; whether the offender is to be punished or 'treated'; whether he is to be 'blamed' or 'understood'; and so on. Nor is the list at all comprehensive of the various dichotomies by which such sentencing aims may be analyzed. Aims are frequently described, for example, as pertaining to the offender or the offence, or as 'looking backward' or 'looking forward' in their concerns.⁴ Also not included is the Utilitarian/Non-utilitarian dichotomy since, as mentioned above, we are concerned here only with aims assumed to be utilitarian.

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- 4. See Thomas (1970) for an interpretation of the classification strategies employed by the Court of Appeal in Britain in sentencing procedures. He argues that the courts tend first to decide whether a sentence is to be based on the 'tariff' or to be 'individualized' in terms of the needs of the offender. Once this is decided, the court can proceed to consider the specific penalty according to the tariff which should be applied or, alternatively, the specific type of treatment measure to be employed. See also Cross (1975, p. 130) for a description of sentencing aims in terms of their 'long-term' vs their 'short-term' goals.

Within their limitations, however, the dichotomies, arising as they do from the analysis of the traditional aims of sentences, can then be employed to describe and distinguish these aims quite easily and fairly precisely. In Table IV - 1 the five sentencing aims with which we are concerned are analyzed in terms of four of the dichotomies. The last dichotomy - attitudinal specificity - is omitted since it is not important for the ensuing discussion.

Some of the classifications of the aims may of course be debatable. The table demonstrates, however, the utility of this type of analysis. One can perceive the specific differences and similarities between the selected sentencing aims quite readily. It may be noted, for example, that most of the aims are concerned with attitude change, broadly defined, rather than with direct control over an offender's behaviour. The complexity of the rehabilitative aim may also be observed. While it is interpreted as seeking to provide the offender with support or encouragement and thus to meet to some extent his emotional needs, it can also be seen as offering guidance or advice with a view to improving his (cognitive) understanding of his problems. The 'cognitive' element here, however, pertains to the offender's understanding of his own situation or needs rather than constituting an attempt to teach him an understanding of the moral aspects of his law-breaking behaviour; i.e., an understanding of the rights of others.

Table IV - 1 Analysis of Selected Sentencing Aims in Terms of Descriptive Dichotomies

<u>Aim</u>	<u>Dichotomous Sentencing Aim Variables</u>			
	<u>Basic Social Control Method</u>	<u>Basic Psychological Rationale</u>	<u>Direction of Sanction</u>	<u>Target of Sanction</u>
Denunciation	Influence attitudes	Cognition (moral precept)	Punitive	Offender and/or public
Deterrence	Influence attitudes	Emotion (fear)	Punitive	Offender and/or public
Rehabilitation	Influence attitudes	Emotion (needs) and Cognition (self-understanding, etc.)	Non-punitive	Offender
Incapacitation	Control Behaviour	Not applicable	Non-punitive	Offender
Reparation	Influence attitudes	Cognition (moral precept)	Non-punitive	Offender and/or public

To clarify the relationships between the several aims further, it is possible also to construct a tree diagram in which the various sentencing aims can be placed. The diagram is given in Figure IV - 1.⁵

The scheme is based of course on the definitions of sentencing aims postulated earlier and the descriptive dimensions here considered primary. Within such assumptions it serves, however, to demonstrate the relationships between the various aims and to integrate them around the assumed single aim of the criminal justice system as a whole. It also assists in clarifying the interpretations given here to some general terms often used to define sentencing aims. As shown, 'reductivism' (after Walker, 1972) is assumed to be the general aim of the criminal justice system. The 'reformatory aim' is located in accord with the broad definition of this aim given in Chapter II as including any aim designed to change attitudes (the question mark beside it acknowledges that some might wish to leave deterrence out). The 'punitive aim' (not shown) would include denunciation and deterrence. And what I have called the 'justice aim' comprises the reparative and denunciatory aims. Let us come quickly, however, to the point of the analysis here - the relationship between the reparative aim and, specifically, the rehabilitative and denunciatory aims. It is appropriate to begin by comparing the latter two aims.

5. The order in which the dichotomous variables are placed seems the most appropriate for the present purpose. Other arrangements are possible of course.

Criminal Justice System Aim

Dichotomous Sentencing Aim Variables

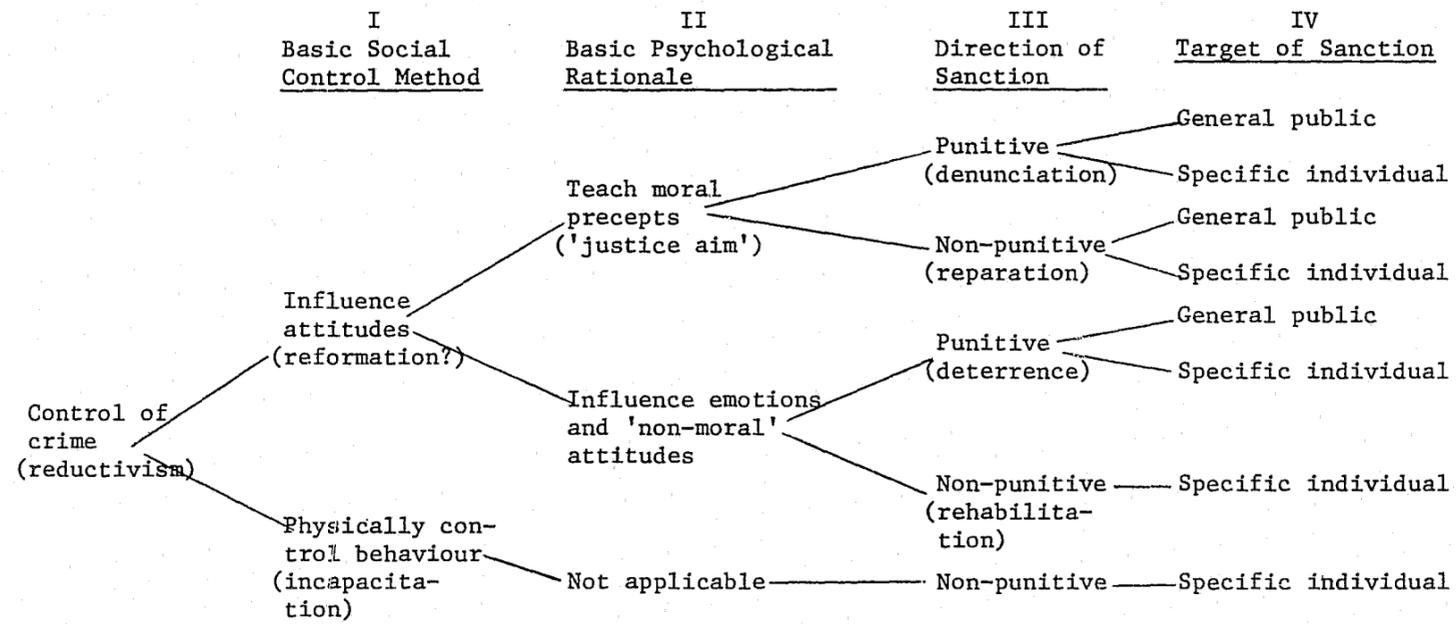


Figure IV - 1 Diagrammatic Analysis of Sentencing Aims

The Place of the Reparative Aim

The analysis of sentencing aims given above reveals quite clearly the numerous conflicts between the denunciatory and rehabilitative aims. Although both seek to change attitudes, they markedly differ on all of the other dimensions. These conflicts are so familiar they need not be described in detail here. The denunciator assumes a measure of free will on the part of the offender and makes an appeal to the offender's capacity for rational understanding of his relationship to others, while the rehabilitator is the determinist who relies, speaking very generally, on changing the offender's environment as a means of influencing his social attitudes and behaviour.

As to the direction of sanction variable, the denunciator relies on punishment according to deserts to 'bring the message home', while the rehabilitator prefers to avoid punishment and if possible to use approval or other 'rewards', provide support, or generally meet the offender's 'needs'. Finally, as regards the target of the sanction, the conflict is not as readily apparent and in fact is only partial. But to the extent that the denunciator is aiming his message at the general public - and we noted in Chapter II that for the most part denunciators seem to pitch their arguments at a broad social level - he will logically need to consider what the public might regard as a just sentence, and to that extent he will be less free to consider mitigating circumstances peculiar to the individual

case, circumstances which would not be known or which cannot be easily communicated to the public.⁶ The rehabilitator, on the other hand, determines his response, in principle, only according to his perception of the 'needs' of the offender. The two sentencing aims thus may also clash, at least partially, because of a difference in the target selected.

The analysis of the denunciatory and rehabilitative aims, in short, demonstrates rather plainly the philosophical, psychological, and even the 'technical' differences between these two sentencing aims, dealing, albeit in a very simplified way, with what attitudes are to be taught, how they are to be taught, and who is to be taught. The sheer number of conflicts between the aims leaves little room for wonder about the tenacity of the debate between these aims. Let us proceed, then, to consider the question of whether or in what sense reparation may render them compatible.

It will be seen first, in Table IV - 1, that the reparative and denunciatory aims are similar in terms of three of the variables:

6. It is not suggested here, incidentally, that the denunciatory sentence is necessarily determined by the sentencer's perception of the attitudes of the public. This might be the case if the sentencer saw himself as simply expressing the public's notion of justice. But he must still take the attitudes of the public into account if he intends to demonstrate the operation of justice principles in order that he may teach them.

both a) seek to influence attitudes, b) seek to influence moral attitudes in particular, and c) assume that the principles of justice should be conveyed to the offender, to the public, or to both. They differ, however, in the direction of the sanction. As pointed out in Chapter II, reparation does not require that the offender suffer. Some forms of reparation may indeed cause great suffering, while other forms - constructive labour in the community for a worthy cause, for example - may even be perceived by the offender as pleasant or rewarding. Both the suffering and the satisfactions are, however, effects rather than justifying aims.

Reparation would therefore by definition not satisfy the 'pure' denunciator; in cases where reparation is presented as an adequate substitute for punishment-according-to-deserts he will look of course to the degree of suffering it causes. He may argue that the suffering is insufficient or, even if it is sufficient, that reparation is not an appropriate method of inflicting punishment in a given case, not dramatic enough, perhaps, to convey the desired message. He may point out that some offences arouse strong feelings and cause serious and irreparable injury.

Many a denunciator, however, may be ready to compromise, to be content with the reparativist's assumption that offenders should be held accountable for their acts and that moral precepts should be promulgated by means of sentences. The acceptance of reparation by such denunciators clearly implies that to that extent at least it is not the punitive aspect of a sentence that is

important to them but rather the moral assumptions the sentence makes and the moral precepts it seeks to convey. Accordingly, punishment, as a technique for communicating the principles of justice, can be discarded if other techniques prove superior. For these denunciators, then, reparation goes some of the way toward meeting their demands. The dispute between the two aims is, after all, one concerning 'techniques' for achieving a common goal.

The relationship between reparation and rehabilitation is more complex since these aims differ on two of the four dimensions and since one of these - the basic psychological rationale - is concerned with an issue of more profound significance than the direction of sanction on which reparation differed from denunciation. Taking the several dimensions one at a time, first, the rehabilitator is bound to be pleased that the reparativist does not intend to inflict punishment. But as we saw earlier, reparation may indeed have the effect of causing the offender considerable suffering or deprivation, and the rehabilitator is therefore likely to be concerned about the effect of this upon the offender's 'social adjustment', whatever the worth of arguments that it will assist in the offender's 'moral growth'. With respect to the target of the sanction, the reparativist, like the denunciator discussed earlier, may be more interested in the moral effects of the sentence upon the observing public rather than upon the offender. The rehabilitator can be expected to object to such a focus. Finally,

with respect to the basic psychological rationale of the sentence, again the rehabilitator must take a rather conditional approach. He may of course readily accept a reparative sentence which at least plausibly has 'therapeutic' features; e.g., requiring contact with law-abiding citizens, entailing group support, providing the opportunity for the offender to learn useful social or occupational skills, etc., not to mention simply avoiding imprisonment. But if no such features are present then the rehabilitator cannot be expected to accept a reparative sentence.

In short, there is no avoiding the fact that in principle the rehabilitative and reparative aims differ in several ways and any acceptance of reparation by the rehabilitator is bound to be highly conditional. To go further, the rehabilitator must begin to surrender some of his conditions. If he is to talk in terms of the offender's moral responsibilities for the harm entailed in the offence then, according to the definitions adopted here, he is beginning to change his views.

The Significance of Community Service for Sentencing Theory

Let us turn, then, on the basis of the foregoing analysis of the role of the reparative aim, to the conception of CS as a 'versatile' sentence, a sentence which, for a useful proportion of cases, 'reconciles' aims which ordinarily conflict. In what sense does CS, as an expression of the reparative aim, render compatible the positions of the 'conservatives' - who we may take to

be mainly denunciators or even retributivists - and the rehabilitators? It is apparent first, from the previous discussion, that the two positions are not reconciled in principle; they remain based upon quite different assumptions about the determinants of attitudes and behaviour. The question is, rather, what is the nature of the compromise? Who is giving up what requirements?

It would seem clear that the denunciators accepted CS mainly because it met their essential demand that a sentence convey the principles of justice and not because of its 'punitive component'. As pointed out in Chapter II, the punitive potential of CS could hardly be taken seriously (despite the increase in the maximum permissible sentence to 240 hours), and indeed there seemed a general desire to avoid harshness in the administration of the new sentence. The desire to see 'a really worthwhile effort being put into it' by the offender arguably shows a response to the reparative potential of CS rather than a desire to punish. The denunciator, then, rather readily struck a compromise about the need to punish offenders, and yielded in the area of technique.

For the rehabilitator there seemed, however, as shown in Chapter II, to be a need for somewhat more soul searching. The fact that CS was not punitive in aim was of course attractive. Further, it could be seen as a form of reparation which was at least not inconsistent with several conventional rehabilitative

techniques. But it was argued that the 'therapeutic' elements in CS were clearly secondary, and that what had attracted rehabilitators to CS, in the main, was its reparative aspect, and with this its emphasis on the moral responsibility of offenders. For rehabilitators, then, CS tended to induce not simply a change of thinking about technique but a change in what we have called the 'basic psychological rationale' of a sentence. If CS was a 'breakthrough' it was clearly a breakthrough more for the denunciator than for the rehabilitator, a breakthrough for the moral position in sentencing.

The significance of CS for sentencing, then, is not so much that it is a versatile sentence which 'reconciles' several aims on the level of sentencing practice, important as this may be for the pragmatist and the administrator. As mentioned earlier (Chapter II), such versatility is a characteristic of several sentences in greater or lesser degree. And, indeed, if the length of CS sentences or the type of work was changed from what it is at present, one could expect its versatility to be quickly affected. Conventional conflicts among aims would soon arise. Of more significance, it is argued, is the contribution of CS to sentencing theory. As discussed in Chapter II, CS contributes to the clarification of reparation as a criminal sanction - here was a sentence which expressed the concept of redress for wrongdoing, but where the point of it was not the material benefit in itself to the community, but the principles of justice implied. In this Chapter it has been shown, specifically, that CS presses

the denunciator to articulate his views about the place of punishment and, particularly, provokes the rehabilitator into re-examining his basic social-psychological assumptions. CS represents a basic response to wrong-doing - the moral response - in a form which is palatable to deterministic and humanitarian approaches: justice can be done without necessarily requiring the intent that offenders suffer; the need to do justice can be communicated in rational terms with minimum resort to the use of power; requiring justice can have beneficial effects not only for the society at large but for individual offenders. While such arguments, as we have been trying to show, are anything but new nor are they unique to the criminal justice system, CS represents them in a palpable and appealing way in modern sentencing practice. CS is thus, as Hood (1974) suggests, both an expression of broad social trends toward a stress on individual responsibility and a contributor to the expression of such trends in a rational and humane way in sentencing.

This chapter thus completes the discussion of the first three criticisms of the work on CS to date - the need to identify its aim or aims, to provide a plausible justification of its aim or aims, and to consider its implications for sentencing theory. We can turn in the next chapter, therefore, to the investigation of the effectiveness of CS in achieving selected aims. It will be seen that the design and hypotheses necessarily and properly draw extensively on the foregoing analysis of sentencing aims and on the social-psychological theories justifying, as it has

turned out, the reparative aim. Broadly defined, a sentence - barring the incapacitative aim and assuming utilitarian system aims - is of course an exercise in social and psychological theory, and for the scientific investigator CS presents an opportunity to test what the moralists, more or less articulately, have been saying.

CHAPTER V: RESEARCH STRATEGY AND HYPOTHESES

The purpose of the empirical portion of the study was to test the hope of the Wootton Committee that CS would help to change the attitudes of offenders. The most direct way to test this general hypothesis was to compare the effects of CS on offenders' attitudes with those of other sentences which are also intended, at least in part, to influence attitudes. This required: a) the selection of other sentences for comparison (defining the independent variable), b) the selection of the attitudes to be measured (defining the dependent variables), and c) a statement of hypotheses. These tasks are taken up in this chapter. In Chapter VI we can then proceed to the problems of design, measurement, and data collection.

The Independent Variable

It was pointed out in the previous chapters that attitude change, broadly defined, was the aim not only of a reparative sentence such as CS, but also the aim of denunciatory, deterrent and rehabilitative sentences. Ideally CS should therefore be compared with sentences representing these other aims and also, indeed, with other types of reparative sentences. The difficulty in selecting sentences for comparison arose, however, from the fact that it is difficult to think of a sentence which is not, to use Walker's (1968) term, 'ambiguous in aim'.

Although some sentences are more complex than others, any sentence can usually be interpreted as representing a variety of aims in terms of several of the descriptive dimensions given earlier. Even if two sentences, for example, do appear to rest on the same 'basic social control method', 'basic psychological rationale', and 'direction of sanction', - for example, to influence attitudes about justice by non-punitive means - they may for all that be aimed at different targets. The most serious single problem arises, as we shall see, in interpreting the aim of a punitive sentence - is it to deter or to denounce? or to do both? and who is to be the target? Further, different sentencers might employ the same type of sentence for different purposes, and the same sentencer might use a single type of sentence for different purposes depending upon the circumstances of the case before him. Or, indeed, the psychological rationale of a sentence may shift, at least in emphasis, depending upon its target. For example, it is quite conceivable, perhaps common, that a fine is intended to influence both the offender and the public but to have a deterrent effect on the individual offender and simultaneously a 'denunciatory effect' on the general public.

Ideally, to choose subjects representing specific sentencing aims, one would need information from the sentencer in each case about what specific mixture of aims a sentence was to be taken to represent, assuming of course that definitions could be agreed upon at least for research purposes.

Such information is, however, generally not available; certainly it was not within the resources of the present study to try and obtain it even if it were. The solution to the problem of appropriate selection of sentences for comparison was, then, to choose sentences which could be defended as predominantly representing a specific aim, sentences which appeared at least less ambiguous than possible alternatives. Further, however, the requirements of research methodology and such practical matters as the availability of, and access to, sufficient numbers of offenders also needed to be considered.

Accordingly, probation was selected as a primarily rehabilitative measure. At least its target was clear and it seemed reasonable to assume that probation is still interpreted and administered in England predominantly within the traditional meaning of the rehabilitative aim given earlier. This is not to say by any means that probation is completely without denunciatory, deterrent and even reparative elements. As indicated earlier in connection with the growth of the 'moral model' in clinical psychology, corrective policy has perhaps been more ready in recent years to take a 'tough-minded' approach to probationers - to hold them responsible for their fortunes to a greater degree than in the past, to 'challenge' them and offer them 'opportunities' rather than 'treatment'. The very term probation - presenting the opportunity to the offender to 'prove' himself worthy of release from more severe consequences, which indeed are held over him to some degree as a

deterrent to violation of his 'contract' - is of course still retained. But while probation clearly has moral aspects it does not typically hold the offender accountable for his offence. Neither the duration nor the restrictiveness of the conditions are, at least in theory, determined by the seriousness of an offence or the culpability of the offender, but rather by the 'needs' of the offender. Nor, in the course of treatment, is the offender typically encouraged to consider his moral responsibility for his offence, let alone seek in any way to make a settlement with the victim. The traditional, deterministic, 'treatment ethic' clearly predominates in this sentence.

Sufficient numbers of probationers of a type roughly comparable to those given CS could also be expected to be available.

The denunciatory and deterrent aims, however, are not typically distinguished by different types of sentences. Both require that the offender suffer, but it is usually not at all apparent whether or to what extent a sentence is denunciatory and to what extent deterrent in aim. It is reasonable in fact to assume that the two are usually combined.¹

1. Punitive sentences may of course also be partly or wholly retributive in aim, and as such would have no psychological rationale and no target of influence since they would not by definition be intended to influence attitudes or behaviour. For the purpose of this study we have assumed of course that all of the aims with (continued)

Nor are punitive sentences usually clear as to the target of the aim. Here again one might assume that the punitive sentencer usually has, to a greater or lesser degree, both the offender and the public in mind.

It was necessary, therefore, simply to select a punitive sentence and, further, to assume that at least appreciably such a sentence was intended to influence the attitudes of individual offenders and not simply those of the general public. The fine was the obvious choice since at least its punitive intent seemed clear and it met the practical and design requirements of the research; i.e., sufficient numbers of fined offenders comparable to those given CS could be expected to be available. It is perhaps reasonable to assume that, at least so far as the individual offender is concerned, the predominant aim of the fine is usually deterrence rather than denunciation. Presumably the sentencer is usually saying, in the main, 'this is meant to make you suffer so that you will not offend again for fear of such consequences' and not '...so that you will not offend again because you have learned to appreciate the principles of justice'. It is not necessary, however, to make such an assumption in any hard-and-fast way, and we will be content for the moment with the assumption that a fine simply

which we are concerned, and therefore the sentences which serve them, are utilitarian in aim. The research itself would not otherwise be appropriate.

represents the general 'punitive aim'. At least it is clearly not, nowadays, regarded as reparative in aim (notwithstanding its historical roots!).

None of this is to imply, of course, that CS itself is suddenly free of ambiguity as regards its aim. It was interpreted as reparative in aim only after rather lengthy argument, and one can have no illusions that the argument is necessarily acceptable. Indeed, as indicated earlier, from a purely theoretical viewpoint it was desirable that another, perhaps 'purer', reparative sentence be found; e.g., the sentence of a conditional discharge or some such 'nominal' sentence along with a formal or even an informal understanding that compensation or restitution (or even repayment in the form of service) would be made. Considerable effort was made to determine the incidence and availability of more purely reparative sentences to provide a third comparison group. It was found, however, that such sentences simply did not exist in sufficient numbers to provide for the selection of offenders who were at all comparable with those given CS, placed on probation, or fined, and who also resided within a reasonable distance of Cambridge.

The independent variable of the study was, then, type of sentence, represented by the fine, probation, and CS. These arguably reflect three sentencing aims: the 'punitive aim', the rehabilitative aim, and the reparative aim. The sentences

thus differ rather profoundly in their predominating psychological rationale, and in what is required of the offender - he is to suffer, to receive, or to give. Accordingly, they should have different attitudinal effects. This is taken up below.

The Dependent Variables

Several preliminary points should be made about the choice of the measures of the effect of CS on offenders' attitudes. First, it should be noted that we were not concerned with the effect of CS on offenders' social or criminal behaviour. It was assumed about CS, in common with all sentences which in their various ways attempt to influence attitudes, that attitudes are related to social behaviour and specifically to law-breaking behaviour. It was not within the scope of this study, however, to discuss this assumption, although in the context of describing the nature of attitudes in Chapter VI reference will be made to the general problem of the relationship between attitudes and behaviour.

Secondly, the Wootton Committee's selection of offenders rather than the general public as the target of attitude change was accepted here on practical grounds. If the previous argument that CS is reparative in aim, and the definition of that aim, are accepted, the effects of CS upon the attitudes of the general public would also be theoretically quite justifiable as a research topic. The study of public attitudes toward, or response to, a sentence is of course not uncommon -

witness the studies of public attitudes toward the death penalty, not to mention the investigation of the effectiveness of deterrent sentences in general. Further, as mentioned earlier, there seemed to be evidence already that the public was to some extent aware of the development of CS in Britain and had attitudes toward it. And some might indeed argue, as the denunciators largely do about punishment, that the effect on public attitudes is by far the more significant consideration for this type of sentence. Such research is, however, not only very complicated (since it is extremely difficult to isolate effects and a large amount of data is required), but also expensive in time and money if it is to be done well. It was, in any event, quite beyond the constraints of the present study.

Thirdly, in view of the ambiguity about the aims of the sentences to be compared, particularly CS, it was considered useful to determine how the subjects themselves would perceive the aims of their sentences. The predictions about the differences in effects between the sentences were based after all on the argument that they differed markedly in their (predominant) aims. This implied that the subjects at least in the main would interpret the purpose of their sentences in accord with our assumptions, that they would experience what they were supposed to experience.

Determining the subject's perceptions of the aims of their sentences, however, was not without problems. Although an offender himself could be expected to have a better idea than mere observers about what the intent of the court was, there was

considerable room for different interpretations. First, the court might not have stated its aims at all clearly, might have stated aims different from those we have assumed, or might have taken for granted the basic punitive, rehabilitative or reparative rationale of the different sentences, and have stressed more immediate 'negative', and practical goals; e.g. keeping the offender out of prison or protecting the welfare of his family. This would apply particularly to CS, considering the prevailing controversy about its aims. The court, and particularly the correctional staff, might well have emphasized its rehabilitative aspects, if only in the negative sense that it served to avoid imprisonment. Or, indeed, for some offenders CS might have resulted in specific training or a change of life-style, so that its rehabilitative effects were the most apparent to them.

A subject's response to a question about the aims of his sentence would therefore depend to some degree on the way the question was put to him. If he was asked an 'open' question about what he thought the main intent of his sentence was, then one would expect considerable variation, particularly as regards CS. But if he was forced to choose between the three aims we have selected, then we would expect the Fine, Probation and CS subjects mainly to select, respectively, the punitive, rehabilitative, and reparative aims.

Turning to the measures of the dependent variables themselves, we noted in earlier chapters that the Wootton Committee spoke mainly in terms of offender's broad social or moral attitudes, their general 'outlook', sense of responsibility, concern for others, and the like. It seemed apparent, however, that the 'signal' would be weak; i.e., it was too much to expect that one could simply apply a few standard scales of social or moral attitudes - alienation, 'maturity', empathy, social responsibility, self-esteem, etc. - and obtain measurable effects attributable to the offender's experience of a single sentence. A more modest, cautious, and indirect approach was considered necessary. It was decided therefore to measure a broad range of attitudes grouped at three 'levels' or stages of removal from the sentence: a) attitudes toward the sentence itself, b) attitudes toward the criminal justice system, and finally c) broader social attitudes. If it could be shown that the sentences at least produced different attitudes to the sentence itself, it then made sense to test the extent to which these might 'generalize' to attitudes to 'the system'. The subject's responses to the sentence and to the system could then be used as the basis for constructing measures of the effects of the sentences on 'deeper' social or moral attitudes, particularly the offender's 'sense of responsibility', 'sense of justice', 'sense of self-esteem', and 'sense of alienation'. The construction of the attitude measures is given in the next chapter, and the measures themselves are described in more

detail along with the reporting of the results in Chapters VIII, IX, and X.

Hypotheses

It was hypothesized that the CS group would show more positive scores than the other groups on all measures. The basic rationale supporting this general hypothesis is given briefly below, taking each sentence in turn; additional remarks will be made in later chapters when the results are given.

Community Service. It was predicted first that the CS subjects would show more positive attitudes than the other groups to their sentence and to the personnel of the system. As a sentence which appeals to their sense of justice by requiring reparative and 'altruistic' behaviour, it could be expected that they would regard CS as 'fair', 'sensible', 'helpful', and the like. Further, they would tend to emphasize the principle or the moral aspects their sentence represents rather than to speak in terms of its self-serving advantages. They would also show, in comparison to the other subjects, a greater 'sense of responsibility' for their acts and less resort to evasion of responsibility or rationalization. Specifically they would be more ready to admit their part in their offences and show less tendency to distrust or criticize the system, less tendency to blame co-defendants or administrators. They would, in short, have less need to restore 'psychological equity', since they would have been provided with at least a degree of opportunity to restore 'actual equity'.

Compared to the other groups, they would show a greater 'sense of justice' about their sentences and about the treatment afforded them at the hands of the system. They would show relatively less resentment, anger, bitterness, or sense of having been treated in an arbitrary and biased way.

The meeting of one's moral responsibility for specific acts, in a palpable and active way, is also predicted to have a positive effect on the sense of self-esteem of the wrong-doer. The CS subject, compared to the other subjects, would feel less 'degraded' or humiliated by the system. It was shown earlier that implicit in the notion of equity is freedom to bargain; the subject is, as it is said, shown the respect of being blamed; he is 'taken seriously' as an autonomous being; he is assumed to be in control of his acts rather than to be merely subject to external or internal forces. Implicit in being held accountable, it was argued, is the message that by his own efforts the offender can win his freedom by paying his debt. Further, CS entails obtaining the 'consent' of the subject and the negotiation of an 'agreement' with the authorities, at least about the type, location, or scheduling of the work to be done. The CS subject thus participates actively in the 'settlement' of his crime.² All of these factors imply a greater

2. For an analysis of criminal justice policies and procedures in terms of levels of moral principle, see Tapp and Levine (1974). These authors advocate penal procedures whereby the offender can participate in resolving his conflict with the law, and thus foster in him a greater awareness of the principles for which the law stands.

degree of respect for the subject than that implied by the other sentences. It was predicted that all this would not be lost on the CS subjects; they would regard themselves as having been treated with greater consideration and understanding than the other subjects, and this would be reflected in a greater degree of optimism, confidence, or decisiveness in their total response to their sentence.

The CS groups would, moreover, show a greater 'sense of integration' (or, conversely, a lower 'sense of alienation') than would be true for the other groups. First, as pointed out in Chapter III, the fundamental role of the principles of justice in the maintenance of co-operative or socially integrated behaviour tends to be accepted and understood on intuitive grounds even though it may not be verbally articulated. More specifically, CS addresses itself to some of the central dimensions of the concept of alienation. The subject, by actively servicing his sentence - particularly where such service is in a form which takes into account his preferences or his skills - enjoys a greater degree of control over events. This might be expected to reduce his feeling of 'powerlessness'. CS also can be expected to make more 'sense' to the subject, to be less 'meaningless' to him, since making reparation for wrong-doing is compatible with the common morality he knows. CS also expresses moral standards in a relatively palpable, clear and concrete way. This would militate against a sense of 'normlessness' or 'anomy' in the subject. He is treated not as an 'abnormal', 'sick', or

'deviant' individual but rather in accord with standards which are applied to all. Finally, to the extent that CS takes the form of 'altruistic' behaviour, and to the extent that the subject comes into contact with humanitarian social services voluntarily provided by other citizens, he is exposed to the practical expression of broad social values and ideals. The experience carries the message that not only do human needs exist but that others are there to meet them. This arguably would foster, in a very general sense, a reduction of the subject's sense of 'isolation' or 'intellectual estrangement' from the values of his society.³

Probation. To the extent that probation is rehabilitative in aim, in accord with the definition of this aim adopted here, it does not address itself to the question of the moral responsibility of the subject or specifically to the question of establishing a just relationship between the sentence and the offence. Probation therefore cannot be expected, relative to CS, to communicate to the subjects a general 'sense of responsibility' about their offences. To the extent that probation does attempt to hold the offender responsible for his behaviour with regard to observing the conditions of his order, the focus is on the

3. See Chapter III, footnote 6, for references on the concept of alienation. The terms used here to indicate the 'components' of alienation - powerlessness, meaninglessness, normlessness, isolation, and intellectual estrangement - are taken from Seeman (1959).

consequences of his behaviour for himself rather than for others. Probation would thus not encourage the subject to think in terms of moral principle, about his responsibility for his offence or general obligations to others, but rather to think in terms of meeting his own needs or desires.

Further, from a moral point of view, not to be blamed or held accountable to a reasonable and appropriate degree is, again, not to be 'taken seriously'; it is to be considered helpless, and thus implicitly subject to the control of others. It is to have one's dignity or pride as an autonomous individual disrespected. The probationer is placed in an essentially passive role and has relatively little opportunity to control the outcome of his sentence in an active and concrete way. The probation subjects could therefore be expected, for all the 'support' or other assistance provided by the probation officer, to show a lower sense of self-esteem than the CS subjects.

The probation subjects could also be expected to show a relatively high degree of alienation on several counts. The fact that the probationer is not required to make reparation for his offence would render him less able to achieve, as it is so frequently put in recent correctional jargon, a 'reconciliation with the community'⁴ by behaving equitably and thus cooperatively.

4. The phrase is perhaps more common in Canada with respect to reparative sentences than it is in Britain. See, for example, Canada: Law Reform Commission (1974), p. 8.

But not only is the probationer not asked to reciprocate in any appreciable or material way for his offence but there is little he can do to reciprocate the kindness he receives from his probation officer, kindness he is usually ready to acknowledge. Arguably this would contribute to the well known apathy and cynicism, the half-guilty disrespect and ambivalent feelings probationers often show to a probation officer whom they may well regard as a 'good sort'. The relationship between the probation officer and the probationer is, from the probationer's point of view, largely 'one way' and thus it violates the common rules of fair (reciprocal) exchange. In general, to be, in effect, forgiven by the community after doing it harm is clearly contrary to the common principles of justice the subject intuitively knows. In short, the subject would experience a greater sense of alienation in all of the senses mentioned earlier - powerlessness, normlessness, meaninglessness, and a sense of isolation.

And as for promoting in the offender an increasing awareness of notions of justice, at the very least probation is morally an ambiguous sentence. What is wrong with it is not that it represents an attempt to understand the offender, but that it only understands. It fails to express appropriate blame. It fails to achieve the proper balance between the justice of equity and the justice of need, between the need to demand some sort of reciprocity and the desire to forgive and to help. In this situation it would not be expected that probation, in comparison with CS,

would foster a strong 'sense of justice', regardless of the lenience or the benevolence this sentence represents.

The Fine. As indicated earlier, the fine, so far as attitude change in offenders is concerned, might be deterrent or denunciatory in aim or, more likely, both. Since there was insufficient information to take a strong position on the question as to which of these aims predominated, attitudinal effects of fines for each of these aims are postulated in turn.

To the extent that the fine is denunciatory, it shares with CS the aim of moral growth in offenders. It differs only in the 'direction of sanction' variable in that it attempts to communicate the notion of justice, responsibility for one's acts, awareness of moral principle, etc. by means of punishment-according-to-deserts rather than by means of reparative and 'altruistic' acts. Since this requires, of course, that the offender suffer, it can be expected, at the least, to put him on his guard, to cause him to be vigilant about the appropriate balance between the harmfulness of the offence and the suffering he experiences. He might readily argue that, even though his punishment is 'fair' and not vindictive or inconsistent with that given others in similar cases, it is inhumane, destructive, not sensible, not understanding of his individual circumstances, and the like. The sheer complexity of the concept of justice and the virtual impossibility of balancing the harm to the state implicit in any crime with the suffering of the individual offender in any precise way, not to mention the difficulty of assessing

the extent of the offender's culpability for the offence in the first place, provides an extremely ambiguous situation, and therefore a great deal of room for disagreement. The court would seem here in the unenviable position of saying 'this hurts me more than it does you...but can't you see that it is fair and proper...you must suffer as you made others suffer'. A positive response by the offender to such a plea would seem to require a considerable degree of detachment and self control.⁵ In comparison with CS, which is not concerned with the extent of suffering by the offender and indeed may be able to communicate the notion of justice by means of relatively light sentences, fining would seem to be treading in a mine-field.

To the extent that the fine is deterrent in aim, it differs from CS much more decisively. It is not only punitive where CS is non-punitive, but differs in its 'basic psychological rationale' - it deliberately appeals here not to the subject's sense of rational principle but to his fears. And although it assumes the offender to be capable of controlling his behaviour in response to his anticipation of its consequences, the deterrent fine does not convey a moral principle with respect to the offence. The size of the fine is here in principle based on the seriousness of the

5. There is some empirical support for the intuitive idea that the wrongdoer will accept punishment, and inflict self-punishment, only when all other means of doing actual or psychological justice have been exhausted. See Walster and Walster (1975).

offence only in the sense that the state wants to be more or less sure that if the offender contemplates any further such wrongdoing, the fear arousal will be sufficient to be effective in inducing him to inhibit the behaviour. In terms of the 'levels' of moral reasoning described in Chapter III, deterrence clearly occurs at the 'lowest' level, resting its authority on power rather than upon an appeal to moral principle.

In these circumstances it is quite conceivable of course that many fined subjects would respond with positive attitudes towards their sentence; they might consider their penalty costly but timely, necessary, and appropriate to their motivations; and they might also consider the sentence roughly sufficient in severity to 'teach them a lesson' without making any reference to the rightness or wrongness of law-breaking behaviour. However, for the same reasons mentioned earlier concerning the denunciatory use of the fine, the subject's response might be quite critical if not strongly resentful and bitter. The fined subjects could be expected in large numbers to reject this sentence and the system which imposed it upon them.

And if we turn to the possible effects of a deterrent fine on the broader social attitudes we have been discussing, since a deterrent fine by definition carries no moral message it cannot be expected to induce in offenders as strong a sense of justice as would CS. Similarly such a fine does not seek to influence the subject's sense of responsibility for others; it

rather warns him to watch out for himself. And, as regards the influence of the deterrent fine on the subject's sense of self-respect and sense of alienation, to be intimidated is of course to be subjected to a superior power, to be forced to conform rather than to be asked to negotiate. His sense of control over events, and with this his sense of alienation and self-respect, can be expected to be adversely affected.

Summary

In this chapter the research plan and hypotheses have been described in general terms. The chief problem in selecting sentences for comparison with CS was the 'ambiguity of aim' that characterizes most sentences. We therefore approached this problem in a systematic way, drawing upon the analysis of sentencing aims given in the previous chapter. Thus the study was described as concerned with the effects of sentences on attitudes rather than behaviour, with attitudes of offenders rather than those of the public, and with certain types of attitudes - general social or moral attitudes. Bearing such restrictions in mind probation and the fine were selected for comparison with CS since they were considered also to be intended to influence the attitudes of offenders, but to differ from CS in the psychological rationale on which they relied and in the type of attitude they sought to change.

The primary dependent variables selected were such moral attitudes as the sense of justice and the sense of responsibility, and such related social attitudes as the sense of

self-respect and the sense of alienation. It was decided to proceed cautiously, however, and to determine first the offenders' attitudes to their sentences and to the criminal justice system.

The general hypothesis was that CS would, in comparison with the fine and probation, produce more positive attitudes in offenders on all measures. The arguments supporting this hypothesis drew closely on the social and psychological theories outlined in Chapter III.

CHAPTER VI: METHODOLOGY

Design

The study employed a quasi-experimental design of the cross-sectional or 'after-only' type (Adams, 1975; Caporaso and Roos, 1973).¹ A longitudinal or 'before-after' design was carefully considered in view of its much superior capacity to control for the effect of extraneous variables. It had to be rejected, however, chiefly because of the difficulty of obtaining the 'before' measure. It is clearly difficult to predict ahead of time a) when an offender will be sentenced, b) what type of sentence he would be likely to receive, and c) the severity of the sentence he might receive. It would have been necessary to examine court records or police records on a considerable number of convicted-but-not-yet-sentenced offenders in order to select possible subjects, and then approach each one prior to sentence. For the Fine group the sentence may well follow the conviction within minutes, and a 'pre-testing' would be impossible; and for subjects in all groups an approach at such a time would be, at the least, inopportune. The sheer logistics of such an effort by an 'outside' researcher and the material cost entailed made such an effort unfeasible. Obtaining the 'after' measure

1. Such designs are distinguished from experimental designs by various terms in the literature; e.g., as 'non-experimental' (Selltitz, Jahoda, Deutsch and Cook, 1959), 'operational' (Wilkins, 1969), or simply under the heading of 'survey methods' (Phillips, 1966; Oppenheim, 1966). An experimental level of design is generally considered out of the question for sentencing research in view of the random sentencing procedures it would require. For a discussion of the selection of the 'optimal' design considering all aspects and limitations of a research project, see DeGroot (1969).

would also present problems. Not only would it entail further costs, but one might expect a rather severe attrition of the sample size due to the difficulties of locating offenders. Many of them might have changed their address, might have been reconvicted, or might be otherwise elusive. The plan would also, of course, entail a further request upon the offender for his co-operation. This could not be expected in all cases.

A panel design, taking the first measure within a few months of the sentence and a second measure, say, six to eight months later, was also considered.² Such a design is appropriate, however, when one is interested particularly in the effect of a 'treatment' over time or in measures of the extent to which an effect tends to persist. This information was not considered of primary importance for the present study. Further, on a practical level, it proved in fact very difficult to obtain reasonable numbers of subjects in the catchment areas within a one to three month period from the sentence date. Finally, this design is exposed of course to the same problems as the longitudinal design with respect to the attrition rate to be expected and general costs.

The corresponding advantages of the cross-sectional design for the present study were apparent. Subjects could be selected from those

2. For an example of a panel design applied to the test of the effect of sentences on the attitudes of motoring offenders, see Willett (1975). This study also gives an indication of the 'attrition rate' to be expected in a study requiring repeated interviews.

with suitable sentences and not from among those who might receive appropriate sentences, as the longitudinal design would require. They would also of course need to be interviewed only once, which meant that, compared to the other designs, a considerably larger number of subjects could be interviewed within the time and resources available. Further, the time elapsed between the sentence and the interview could be reasonably long provided it was constant for all groups or its effects controlled in some way.

The cross-sectional design is, however, the 'weakest' of the quasi-experimental designs considered here. Since the subject no longer provides his own 'base measures' from which any change can be reckoned, the 'strength' of the design rests heavily on the steps taken to render the groups comparable on extraneous variables or, where differences do occur, on the statistical techniques employed to eliminate their effects. The problem will readily be seen to have been particularly acute for the present study since, as will be shown, offenders given the three types of sentence could be expected to differ in several ways.

The following procedures for the identification and control of extraneous (or 'control') variables were therefore employed:

- a) An attempt was made to identify all of those variables on which the groups could be expected to differ, which were plausibly related to offenders' attitudes, and for which it was feasible to obtain a measure.

- b) Subjects were selected with a view to 'matching' the groups with respect to at least a limited number of the variables identified.
- c) The group distributions on all variables were compared to determine on which of them the groups differed.
- d) For those variables on which the groups proved to differ, correlational techniques were employed to determine whether in any event the variable was related to the dependent variables and specifically to which dependent variables.
- e) Where the groups were found to differ on a variable and the variable proved to be related to an outcome measure or measures, statistical techniques - usually the analysis of covariance - were employed to control for its effect.

The first two steps are discussed in the remainder of this section. The following two are taken up in the next chapter where the groups are compared. The last step will become evident when the results of the study are described in later chapters.

Subject Selection Criteria

At the pilot stage of the study, an attempt was made to select subjects in accord with fairly narrow criteria: i.e., a) males, b) age 17 to 25 inclusive, c) sentenced 2 to 4 months previously, d) sentenced in magistrates' court, and e) sentenced for property offences. The goal was to obtain a fairly homogeneous group of 'conventional' offenders. Examination of criminal records, and examination of the characteristics of the typical offender placed on CS,

had indicated that, taken independently at least, such criteria would include the great majority of offenders and thus provide sufficient subjects.

It soon became apparent, however, that the criteria would have to be considerably widened. The criteria produced in fact only a handful of subjects in each group. Further, since the Probation subjects were selected by each probation officer from his or her files, the clarity of the criteria was a factor; the narrow statement of criteria made the scanning of a caseload rather difficult for the officer as well as less fruitful, and there was a greater risk of both selection bias on the part of the officer and simple lack of co-operation.

Ultimately, then, subjects were selected according to the following criteria:

- a) Males.
- b) Age 17 to 40 inclusive.
- c) Sentenced within the previous year.
- d) Sentenced for any offence except for sex offences, 'pathological' arson, offences related to addiction to heroin and (with a few exceptions) motoring offences.
- e) In the case of the Fine, the minimum was set at £25. This was intended to avoid trivial offences and the further investigation of offenders many of whom could not be expected to be comparable with those given Probation or CS.
- f) The sentence had to be relatively 'pure'; i.e., the offender must not have been sentenced more or less simultaneously

to more than one type of sentence. As it turned out, a rather surprising number of offenders were serving several sentences for different offences. As a rule, however, one type of sentence clearly predominated, and in only a few cases was it necessary to reject a potential subject on these grounds.

Control Variables

1. Catchment Area. At the pilot stage the possibility of capitalizing upon the potential for a 'natural experiment' was considered since CS, at the time of the study, was under development on a trial basis only in selected regions of the country. The plan required that the CS subjects be obtained in the Greater Nottingham area and the Fine and Probation groups in the Cambridge area. These areas failed, however, to provide sufficient subjects fitting the selection criteria for their respective groups, and it became necessary to expand the catchment areas for the different sentence groups so far as resources would permit. Although clearly there are differences between these areas, there seemed also a good deal of similarity in the socio-economic environment of the subjects in all groups; i.e., the great majority lived in working class and 'depressed' urban and suburban communities. The possibility existed, however, that an 'area effect' would occur, and it was therefore desirable to monitor its effect.

2. Sentence-Interview Interval. It is first apparent that each of the sentences selected requires, on average, different time

periods for its completion. The question then arose, in order to be 'fair' to each sentence, whether the measure of the effect of a sentence on attitudes should be taken at a point peculiar to each. It was simply difficult to say, however, what the optimal point was for each sentence, and the attempt to do so would introduce possibly serious distorting effects due to the resulting differences between the groups in the interval between the sentence and the interview. The safest plan in this situation was to attempt to hold this variable constant over all of the groups.

The next question was the choice of a reasonable period after sentence for interviewing. Ideally, the attitudes and feelings of offenders should presumably have time to 'settle', so that one might assume that they were reasonably stable, and yet not so long that they would 'grow stale' and suffer the confounding and distorting effects of other events in the lives of the subjects. An attempt was therefore made to restrict the interviewing period to two to six months after sentence. This yielded, however, insufficient subjects, and it became necessary to expand it to one to twelve months after sentence. The expanded length of sentence-interview interval increased the possibility that the groups would differ with respect to it and that the attitudes of the subjects would be influenced. It was not clear incidentally how the different groups would be affected. Would probationers feel increasingly critical of their sentence and to those responsible for it once the 'honeymoon phase' was over? Would the fined subjects begin to feel more positively as they made headway in paying their fine or, on the contrary,

increasingly irritated by the burden imposed upon them? Further, since the three types of sentence can be completed within different time periods, it was reasonable to assume that the completion of a sentence by a subject might affect his attitude toward it. Subjects in all groups were therefore selected from those still 'serving' their sentence - making payments on their fine, performing their CS order, or reporting to their probation officer. This solution introduced the risk, however, that a selection bias affecting those groups where the offender had some control over the length of time required to complete his sentence might occur; e.g., CS and, particularly, the Fine. Would offenders who took longer than, say, six months to complete their community service or pay their fine tend to be the less co-operative or more 'delinquent' offenders? All of these factors made it essential that the sentence-interval be monitored.

3. Interview Setting. At the outset it was hoped that the subjects from all groups could be interviewed in equivalent physical situations, on 'neutral' ground, and in private. It was conceivable that a subject might be intimidated or otherwise influenced if he were interviewed in an 'authority setting' such as a probation office or a community service work site, that he might 'fake good' or 'acquiesce', producing 'socially acceptable' responses, or conversely bias his response in a negative direction because of a rebellious response set.³ Subjects interviewed in their own home

3. A 'response set' 'style' or 'bias' may be defined as (continued)

might feel more secure and less inhibited, less likely to 'edit their responses', but on the other hand might produce the appearance of co-operation for fear that a spouse or a parent would learn of any negative attitudes expressed. As it turned out, however, the subjects had to be interviewed in any situation which was convenient for them, a discovery which is by no means new in this type of research.⁴ I could insist only that the interview be private. In view of the possible setting effects outlined above, the interview setting variable was also recorded.

4. Court Type. Again, here, it proved impossible to follow the original plan, i.e., restricting the selection of subjects to those cases heard in magistrates' court. Particularly for the Fine group, where it was difficult to locate sufficient numbers of offenders convicted of offences comparable in seriousness to those of the other groups, it became necessary to accept offenders sentenced in the Crown courts as well.

5. Sentence Severity. The groups could be expected to differ in their assessments of the severity of their respective sentences.

'a habit or momentary set' (Cronbach, 1960, p. 372) which influences the response of a subject because of the form in which the item is put.

4. For an interesting description of the numerous difficulties encountered in attempts to interview offenders in 'real' situations, see Martin and Webster (1964). See also Appendix A in Willett (1973) where a detailed account of field interview procedures and the problems encountered is given.

First, relative to the other groups, more of the CS subjects might have expected a prison sentence; and if one makes the reasonable assumption that a prison sentence is generally regarded as more severe than a non-custodial sentence, it follows that more of the CS subjects would regard their sentence as lenient on these grounds. For one thing, the official policy at the time of the study was that CS was to be used only in cases where a prison sentence would otherwise be actively considered.⁵ Many of the CS subjects could be expected to learn of the policy before, during, or after their court hearing, and infer that had it not been for the CS program they would find themselves sentenced to prison. No such policy recommendations were made, of course, with respect to the fine and probation. And, even apart from official policy statements relatively more of the CS subjects might already have surmised on other grounds that the alternative for them was a prison sentence. As we shall see shortly, there appeared to be at least minor differences between the groups as to the type of offence for

5. One of the assumptions which had to be made at the outset was that, despite the policy recommendation with respect to the use of CS, many offenders given CS would otherwise not in fact have been sentenced to prison. If the policy had been carried out, it would have made it more difficult to find comparable subjects among offenders placed on probation or given fines. There was indeed some controversy at the time within the probation service as to whether the CS sentence should be so restricted, and I was advised (Harding, personal communication) that there was some difference from region to region in the strictness with which the policy was in fact being observed. In the event, as indicated in the discussion in Chapter I of the research to date on CS, the Home Office (Pease, et al., 1977) subsequently estimated that only about 50 per cent of the offenders given CS would otherwise have been sentenced to prison.

which the subjects were convicted and the CS group appeared to contain a somewhat greater proportion of subjects with more serious criminal records, factors which could be expected to influence an offender's expectations about his sentence.

Secondly, the three sentences arguably differ 'objectively' or intrinsically in severity, depending upon the resources, needs, or circumstances of the individual offender. Obviously, for example, it might be much more burdensome for a poor or unemployed offender whose 'time is cheap' to pay even a rather small fine than to report to a probation officer or to perform service in the community.⁶ At least the comparability of the three sentences in terms of their 'objective' severity was anything but clear.

It could also be expected that an offender's perception of the severity of his sentence would influence his attitude toward it and toward the justice system. Consider the remarks of Willett (1973) in this connection:

...an offender's reaction to his sentence will depend to a considerable extent on whether he thinks he 'deserved it' and on his willingness to accept blame. Also, the offender's conception of himself as either a notional or an actual criminal will be influenced inter alia by what happened to the various offence situations in which he has been concerned...ideas of this sort

6. The problem of attempting to equate sentences in terms of severity is of course particularly well known in connection with the fine. The 'day-fine', whereby the quantum of the fine is reckoned in accord with some determination of an offender's daily income, is one solution. In general, the courts are enjoined to take the circumstances of offenders into account.

are relevant not only to those undergoing custodial sentences but also to the offenders who remain in the community, especially those on probation or under disqualification, since their acceptance or rejection of the court's order will depend mainly on the extent to which they and others think it appropriate to what they are said to have done (p. 57).

And Walker (1972), despite his rejection of retributivism and his scepticism about denunciation, also acknowledges the offender's demand that his penalty be 'fair'; specifically that the sentence be consistent with the penalties given others for similar offences and not be 'unpredictably severe' (pp. 29-30).

Control for the probable effects of sentence severity was therefore required. The restriction of the sample of sentence groups to non-custodial sentences was of course one step in this direction. Similarly, the selection of subjects for the Fine group was restricted to those receiving a fine of £25 or more in an endeavour to avoid sentences which seemed, at least in objective terms, very light. For the reasons mentioned above, however, the three non-custodial sentences chosen might still vary considerably in severity and a further measure of each subject's assessment of the severity of his sentence was needed.

The attempt to devise the measure, however, quickly ran into rather serious problems, essentially due to the complexity of the notion of severity. Sentence severity has to do of course with the relationship between the wrongdoing of an offender and the action taken against him. An offender's⁷ assessment of the severity of

7. The assessment of these factors will depend, (continued)

his sentence will depend on several factors, both 'objective' and 'subjective'. First there is of course the objective harmfulness of the offence, coupled with the offender's subjective appraisal of it. It was assumed here a) that the groups were equal in the harmfulness of their offences - at least that the next variable discussed (type of offence) adequately took this variable into account - and b) that the subjects in all groups regarded similar offences as roughly the same in seriousness. We could therefore leave aside these considerations.

Turning to the sentence, it was noted earlier that the three sentences considered here might well differ in their 'objective burdensomeness', depending on an offender's economic or social circumstances. The sentences might also be influenced by a set of variables which are largely subjective in nature; such things as the psychological rationale, motive, or aim of the sentence, the trust an offender has in the professed motives, and the assumed reasonableness or appropriateness of the sentence for the achievement of the professed aims. The offender can be expected to take into account not simply the justice of his sentence based on some measure of the harmfulness of his offence and the objective requirements of the sentence, but also the 'humanity', reasonableness, and specifically the purpose or psychological rationale of the sentence.

of course, on who is doing the assessing. The judgement of the judge or of the general public may well differ from that of the offender. We are concerned here, however, with the offender's assessment.

To put it crudely, human beings are not laboratory animals responding to various intensities or types of stimuli, but intelligent creatures who usually want to know why they are being punished or otherwise dealt with. At least such assumptions are central to the cognitive approach to human behaviour.

The implications of these observations for the control of the sentence severity variable in the present study therefore become clear. It has been argued that the reparative aim is predominant in the CS sentence, that offenders tend to appreciate that aim, and that such a sentence would tend to be accepted as fair, sensible, or reasonable to a greater degree than would the fine and probation which represent other psychological principles. It was hypothesized specifically that CS would be more likely to be seen as 'just', and that the connection or balance between the offence and the consequences would be more likely to be accepted. In short, CS was less likely to be regarded as severe.

The control problem for this variable, then, arose from the need to differentiate the objective from the subjective determinants of the subjects' perceptions of the severity of their sentences. Ideally, what was required was a measure of perceived sentence severity based only on the objective determinants since the subjective factors in fact constituted a dependent variable in this study. Any simple measure of the subject's perception of sentence severity would clearly confound the two aspects. Ideally, it would have been desirable to have, for all sentences, measures of relative severity or 'equivalence scales' which were independent of their

rationale and based only on what we called earlier their 'objective burdensomeness'. It is quite conceivable that such measures can be devised, but it proved impossible to construct them within the scope of this study.⁸

The steps which could be and were taken, however, were as follows: Each subject was first asked what type of sentence he expected. This permitted separating each group into two sub-groups - those who expected a prison sentence and those who did not. Each subject could be expected to remember reasonably accurately what his expectations were in this important matter. So far as it went, it provided an indirect dichotomous measure of perceived sentence severity uncontaminated by the type of non-custodial sentence each subject actually received, uncontaminated by the rationale, and hence the subjective factors, of the sentence actually received.

But while this type-of-sentence-expected measure would arguably

8. In the pilot and early stages of the research, I made an attempt to determine what equivalent sentences would be for the three sentences. Each subject was asked the following question: 'If you were to have received one of the other types of sentence, how long/much would it have to be to be equal to your present sentence as a penalty?' The subjects, however, had considerable difficulty with the question, and it became apparent that many were taking into account the psychological aspects rather than simply the practical demands of their sentences. Some CS subjects particularly might resist answering, saying 'CS isn't a punishment, so I really can't say'. Further, some fined and probation subjects were unfamiliar with the new CS sentence, rendering the validity of their responses doubtful. The question also became quite time consuming. For these reasons, the effort had to be set aside.

go much of the way toward control of the sentence severity variable, it would not take into account the possibility that the subjects would perceive the three sentences as still differing in objective ways. It did not seem clear, incidentally, just how the subjects would perceive their sentences in these practical terms. One could argue that in fact there was little to choose between the mean sentences of the three groups, or indeed that the mean CS sentence (128.1 hours) was if anything more severe than the mean fine (£68.90) or term of probation (26.9 months).⁹ If CS was indeed regarded as on average the most severe sentence, this would tend to 'suppress' the predicted differences between the groups on the outcome measures and lead to more conservative conclusions.¹⁰ In that case one could afford to be a little less concerned about it. But it was also quite plausible that, due to various economic or social circumstances, offenders might consider CS objectively more lenient. Because of this danger a further measure of severity was desirable. The best that could be done, however, was to ask each subject to rate the severity of his sentence. A seven-point perceived sentence severity scale ranging from 'much lighter than expected' to 'much heavier than expected', was used for this purpose. The problem with this type of measure was of course that it would, as argued earlier, be

9. The standard deviations and ranges for the groups were as follows: Fine: £ 37.10, £ 25 - £ 200; Probation: 9.6 months, 12 - 36 months; CS: 58.4 hours, 60 - 240 hours.

10. Rosenberg (1968) discusses the different effects extraneous variables can have. He defines a 'suppressor variable' as one which 'may intercede to cancel out, reduce, or conceal a true relationship between two variables' (p. 85).

influenced to an unknown degree by both the objective and subjective components of sentence severity.

The result, then, was one measure - type of sentence expected - which tended, as it were, to 'under-control' for the effects of sentence severity, and another - perceived sentence severity - which tended arguably to 'over-control' for this factor, to 'throw out the baby with the bath water'. In these circumstances, the safest course was to report the results, whenever both of these measures of severity proved to be relevant to the outcome, in two steps: first with the type of sentence expected measure taken into account (along with any other relevant control variables) and then with the perceived sentence severity measure added as a further control variable. The truth was deemed to be somewhere between the two sets of adjusted group scores, and together the two measures permitted one to make the best possible judgement in the circumstances. This rather cumbersome solution to the problem was much less neat than one would desire, but it seemed better than choosing either one or the other of the two measures of this rather crucial control variable.

6. Offence Type. This variable was recorded for rather obvious reasons. The three sentences to be compared are designed to some extent to be applied to different types of offenders. In practice, this frequently means offenders who commit different types of offences. The offence for which the subjects were convicted was therefore duly recorded. In cases where there was more than one offence, the offender was classified according to the

predominant or most serious offence or group of offences for which he was convicted. For the most part the offences were roughly categorized in a conventional way. Some liberties were taken, however, with a view to bringing out the differences between the groups which seemed to be appearing during the course of selecting the subjects. Thus, a miscellaneous category included a number of offences which technically could be included in other categories but which seemed to be committed by certain types of offenders - the psychologically disturbed, unstable, alcoholic, etc. The offences of obstructing a police officer or assault on a police officer were separately categorized because of their obvious implications for attitudes toward the criminal justice system.

7. Plea. Presumably an offender who denies, or at least partly denies, his offence and feels wrongly convicted will be inclined to take a negative view of any sentence imposed upon him. It was therefore desirable to determine whether the groups differed in their attitude to the conviction, in their acceptance of the essential validity of their conviction. The most obvious measure conveniently available was the formal plea and this was recorded.

An offender's decision as to his plea (whatever it is), however, may be made on technical or tactical grounds or even due to financial considerations (e.g., the cost of a lawyer or loss of time from employment). It thus does not necessarily provide the best indication of his attitude toward the conviction. Consideration was therefore given to devising a more accurate measure of the subject's 'acceptance'

of the conviction. Several methods were considered, e.g., simply asking the subject whether he thought his conviction was a fair and reasonable one, or inquiring of him why he had pleaded as he had. Such measures, however, are based on a subjective and post hoc response by the subject and, like the severity of sentence rating discussed earlier, might well be influenced by the outcome of the conviction, i.e., by the sentence itself. Such responses therefore seemed more in the nature of dependent variables (and will be discussed later as such) than of use as control variables. The formal plea, therefore, was the only measure taken on this variable. While it might not be as valid a measure as one would wish, it was readily available and it seemed not an unreasonable assumption to think that any error would be constant over all of the groups.

8. Subject's Understanding of the Questionnaire. During the pilot stage it became apparent that the subjects would differ quite widely in their apparent understanding of the questions put to them.¹¹ Sentencing policies might indeed give rise to differences between the groups in terms of social, and with this intellectual, 'adequacy'; specifically, for example, that the courts might use probation more frequently for the less adequate offender.

Time did not permit, however, the application of any type of achievement or intelligence test appropriate to offenders. Still,

11. The tendency for subjects to vary in their apparent understanding of questions is a common one in this type of research particularly where the questionnaire is not administered individually. See Oppenheim (1966).

it seemed useful to try to determine if there would prove to be marked differences between the groups in understanding of the questionnaire. Each subject was therefore rated at the end of the interview on a five point scale concerning his apparent level of understanding of the questionnaire. Such a 'test' is frankly based simply on the impressions of this investigator and open to question as to its validity and its reliability.¹²

9. Subject's Moral Development Level. It was hypothesized that the groups would differ in the extent to which they perceived what may be loosely called the 'moral aspects' of their sentences as opposed to the 'instrumental' or self-regarding aspects, the extent to which the subjects spoke in terms of the principle or general purpose of their sentences or in terms of the practical convenience or material benefit of the sentences to themselves. This raised the alternative hypothesis that the 'level' at which a subject interpreted his sentence might be due not to the sentence itself but to his personality type in this respect. It was therefore desirable to have a suitable measure of the 'maturity' or moral development level of all subjects.

The assessment of moral development is, however, no easy matter. As outlined in Chapter III, the distinction between levels or degrees

12. A psychological test (or test-item) is referred to as 'valid' if it measures what it is intended to measure, with a minimum of systematic error, and as 'reliable' if it does so consistently, with a minimum of random error. Definitions of the types of validity and of the measures of reliability used in this study will be given as the need arises. See Cronbach (1960, 1970), Oppenheim (1966), Selltitz, et al (1959).

of development is based not on observable or 'surface' behaviour (whether physical, verbal, or written) but on inferences about the assumptions or principles which underlie the behaviour and serve to integrate it. A number of assessment techniques have been developed in recent years. Typically they involve considerable probing beyond the subject's observable responses to determine the rationale or assumptions underlying his behaviour, and rather elaborate procedures have been developed (See, e.g., Sullivan, Grant and Grant, 1957; Kohlberg, 1971). For the purpose of control of this variable, however, it was considered sufficient to obtain only a rough indication of the moral development level of the subjects. What was required was enough data to dichotomize the subjects reasonably into two groups: those who appeared to function essentially in an ego-centric or 'amoral' way and those who appeared to be conscious of moral principle or moral obligation to others as a guide to their behaviour.

A relatively simple procedure developed by Stephenson (1966) was therefore considered appropriate and was adapted for the present purpose. The subjects were asked five questions designed to explore their attitudes to law-breaking and generally to wrongdoing, and to determine what behaviour they considered to be appropriate after wrongdoing. On the basis of their replies to the questions, or rather more accurately on the basis of the reasons they gave to explain or justify their replies, the subjects were rated on a four-point scale. The scale represented a dimension of moral awareness from the 'amoral' or 'psychopathic' extreme to a relatively high

regard for moral principle. (See Appendix 1 for a detailed description of the interpretation of the questions and a description of the four response categories.)

One of the weaknesses of the procedure, apart from its rough-and-ready character, for the present study arose from the fact that the subject is responding after his sentence. It is therefore conceivable that his replies might be influenced to some degree by the type of sentence he receives. Indeed, it was argued of course that one of the aims of reparative sentences, and of CS in particular, was to foster a growth of moral awareness in offenders. One would have to be the most extreme optimist, however, to think that the effect of CS would be appreciable enough to influence the subject's replies to the very general questions put here. Further, the subject's attention was turned away from his own offence before the questions were put to him.

10. Age. It was of course possible that an offender's attitudes would be related to his age. As indicated earlier, it proved impossible to restrict the age range to the young offender group, i.e., 17-25 years, and the range was therefore expanded to 17-40 years. The broader range made it necessary to monitor the variable.

11. Marital Status. Marital status is, of course, conventionally held to be an index of social stability, and is thus plausibly related to social attitudes.

12. Education. Delinquency, and presumably delinquent attitudes,

have frequently been found to be associated with low educational achievement (e.g., Simon, 1973; West and Farrington, 1973). Further, it seemed plausible that the sentences with which the present study is concerned might be applied to offenders who differed on this variable. The fine, for example, might be used by the courts for offenders who were steadily employed and earning reasonable wages and who thus might have a relatively high level of vocational training, while the Probation group might contain a disproportionate number of subjects with low vocational skills or education.

Several indicators of educational level were therefore recorded: a) type of school attended, b) school leaving age, and c) whether or not the subject had taken any formal education or training in addition to conventional schooling. The several variables were then combined to produce an ad hoc index of educational achievement. To calculate each subject's index score unitary weights were first applied to his score on each of the indicators, i.e., elementary school received a score of zero, and above it one. For the age variable, the distribution of the school-leaving ages of all subjects was dichotomized and a score of zero applied to those ages below the median and one to those above it. Finally, all subjects who had not taken further education were scored zero and those who had taken such education received a score of one. The subject's indicator scores were then summated to produce his index score.

13. Employment Stability. It also seemed plausible that the subjects in the groups would differ in their employment pattern and that this variable would be associated with general social

stability and hence with social attitudes. Specifically, the fine might be applied to offenders who were at a higher level of economic stability than probationers or offenders receiving CS orders.

In order to be sure to bring out any differences between the groups and achieve a reasonably reliable measure, several indicators of employment stability were taken: a) whether or not the offender was currently employed, b) whether he was employed at the time of the sentence, c) his occupational status, and c) how long his longest period of steady employment was. The several variables were then combined to form an index of employment stability by the same procedure used for the education variable; i.e., the two non-dichotomous variables (c and d) were dichotomized at the median of the distribution of the scores for all subjects, and unitary weights were then applied to all scores above the median. Each subject's scores on each indicator were then summated to produce his index score. The Registrar General's scale of occupations was used to categorize occupational status. Four categories were sufficient for the subjects: routine manual, semi-skilled manual, skilled manual, and supervisory.

14. Criminality. Despite the attempt to match the groups at the selection stage, it was reasonable to expect that the groups might differ in criminality, defined here as a pattern of criminal behaviour and associations. The sentences are of course very different, and accordingly are generally regarded as appropriate for different types of offenders. We saw earlier, specifically, that CS was officially recommended for offenders who would otherwise be

sent to prison. The fine, in contrast, is typically seen as a penalty appropriate for a wide variety of cases; and probation, of course, is meant for offenders requiring supervision and assistance (See, e.g., Home Office, 1969).

The relationship between criminal behaviour and social attitudes is, however, not as obvious as one might first assume. Certainly it is commonly assumed that the two are closely connected. In fact, it was pointed out in Chapter IV that most (utilitarian) sentencing aims rest upon the assumption that changing attitudes (broadly defined) changes behaviour. But it should be borne in mind that any relationship between criminal behaviour and social attitudes is bound to be indirect and complex. In general, the internal psychological state of the offender comprises only one set of variables determining behaviour, interacting with many others. Further, it should be noted that attitudes in this study were measured in a certain way - we examined the subjects' attitudes to their sentence and to 'the system', and derived broader social attitudes from these relatively specific measures. In these terms, would the responses of a sophisticated criminal necessarily differ from those of an inexperienced young offender? There is many an anecdote describing a degree of mutual respect between the resourceful or professional criminal and system personnel. On the other hand, minor offenders might well feel antagonism toward, or be 'alienated' by, the system quite out of proportion to the treatment they receive. In short, the relationship between the specific measures of criminality adopted here and

the specific measures of attitude taken cannot be regarded as self-evident.

A relationship between criminal background and the dependent variables was nevertheless at least plausible. And in view of the differences between the three sentences compared, it was considered desirable to examine the variable carefully. Consideration was given to selecting a specific scale of criminal potential.¹³ There are, however, a number of problems associated with the validity and reliability of such scales. To be a useful measure of criminality, the scale must be validated for a reasonably definable category of offenders within a specific culture. Further, such scales are usually limited to only a few variables which emerge as the best predictors, since it is often found that adding variables contributes little if anything to the predictive validity of such a 'test'. In view of these problems the safer course, and one consistent with the exploratory aspect of the present research, was simply to collect data on a number of conventional indices of criminal potential. A wide range of variables would also assist in understanding the character of each group. The following indicators of criminality were selected: a) number of previous convictions (excluding motoring infractions); b) age at first conviction; c) number of previous prison sentences (including juvenile correctional hostels, etc.);

13. The literature on prediction of criminal behaviour is very extensive. See particularly Mannheim and Wilkins (1955); Gottfredson and Ballard (1965); Wilkins (1969); and Glaser (1964). For a recent study in Britain, see Simon (1973).

d) time since last conviction; e) time since last release from custody; f) alcohol/drug offences; g) parole/probation/bond status at the time of the current conviction; and h) presence of a criminal record among the subject's associates. A global measure of criminality was then obtained by combining item scores to produce an ad hoc index score. This was calculated in the same manner as that used for the education and employment indices described earlier.¹⁴

The information listed above was obtained from the offender in the course of the interview. This raised the question as to whether an offender's own statement as to his past criminal behaviour could be expected to be sufficiently accurate for the research purpose. In view of this problem, the original plan was in fact to obtain the criminal record data on the subject from the Home Office's Criminal Records Office (CRO) or from police services. It proved difficult, however, to obtain personal access to the CRO files, and the cost of obtaining the data as a service of the CRO was prohibitive. In any event, there is considerable evidence that self-reports of past criminal behaviour can be expected to be reasonably accurate (Hood and Sparks, 1970; Erickson and Empey, 1963; Empey and Erickson, 1966). Further, official records also have limitations as measures of criminal background (Walker, 1968; Steer, 1973). Finally a

14. The use of unitary weights was considered sufficient for the present purpose in view of evidence that the application of sophisticated and extensive correlation techniques, whereby each variable is weighted according to the degree to which it is related to outcome, results in little improvement in predictive accuracy. See Simon (1973) on this point.

fairly rough measure of criminality was considered adequate for the purpose of controlling its effect on group performance provided the error could be assumed to be constant over all groups. This assumption was deemed tenable here. For these several reasons the self-report measure of criminality was considered valid for this study. (See Appendix 2 for a more detailed defence of the use of the self-report as a source of criminal record data.)

Uncontrolled Variables

1. The 'Hawthorne Effect'. This refers to the well-known phenomenon whereby subjects who realize that they are part of an experimental or special study tend to show a change of attitude or behaviour simply because of the novelty of the enterprise, the 'attention' they receive, or the implied suggestion that they will show a change. It might be argued that offenders given a CS order would profess positive attitudes at least in part because of the strong expectation communicated to them in many ways that they will so respond. In laboratory situations one can sometimes control for such an effect by the use of a 'placebo' - exposing a control group to a similar novel treatment, but one differing with respect to the independent variable - but this of course was out of the question for the present study. The only adequate solution would be to postpone or replicate the research on CS until its novelty was no longer a noticeable factor.

2. Sentence Selection Procedures. Another common criticism of this type of research is that the selection procedures employed

tend to predetermine the outcome. The specific criticism here would be that offenders sentenced to CS tend to be those who, to an extent greater than the other groups, already manifest co-operative or generally positive social attitudes. CS, it might be argued, requires that the offender not simply pay a fine under threat of sterner measures or rather passively accept the 'support' and supervision of a probation officer, but that he appear at specified times and places to perform constructive tasks. Further, his explicit 'consent' to the 'arrangement' is required. It can be replied, however, a) that paying a fine or reporting on probation also involve considerable co-operation by the offender, b) that probation, too, requires the explicit 'agreement' of the offender, and c) that indeed all offenders can be expected to present themselves, to the probation officer and to the court, as reasonable and co-operative individuals. It can be argued of course that sentencers take into account various subtle or residual factors not 'covered' by the control variables monitored in this study, but it would seem highly unlikely that these would have important effects.

3. Subject selection procedures. The major remaining uncontrolled variable arose from the fact that it proved necessary to select and approach offenders in different groups in different ways. Thus, for the Fine group, permission was obtained to search court records for potential subjects. These were then approached 'cold' (i.e., with no further assistance from court officials) at their homes. A similar procedure could have been used for the selection of CS and probation subjects, since such sentences are no less a

matter of court record than is the fine. It was deemed advisable, however, to obtain subjects for these groups from the current files of the probation service. First, this would make the task of locating and contacting potential subjects far more efficient. The records would at least contain the correct address of the offender and arrangements for contact and interview could be fairly easily made. The subject could be interviewed at his home, at a probation office (often immediately after reporting in the usual way in accord with the terms of his probation), or at a CS work site. Secondly - and this applied particularly to the probation group - the probation officer is of course the court official directly concerned with offenders on probation and, further, commits himself to handling all information on his 'clients' in a confidential way. The probation service could therefore be expected to object if probationers were selected directly from court files, perhaps arguing in some cases that the research interview would disrupt or complicate the 'treatment process' or the offender's domestic affairs. An approach without prior approval of the probation officer might also confuse or, worse, arouse the suspicions of some offenders.

These differences in selection procedure would arguably influence the results of the study for several reasons: a) The probation officers may have been biased in their selection of cases, rejecting 'difficult' or 'sensitive' cases, or even those known to have negative attitudes. b) Potential subjects approached first by the probation service might have found it more difficult than fined offenders to refuse to participate. c) Such subjects might

also have had a greater tendency to distrust the independence of the research and the promise of confidentiality given. Finally, d) the involvement of the probation service might have introduced the 'authority factor' mentioned earlier in connection with the interview setting variable.

Such potentially biasing factors applied, however, mainly to the Probation group. For the CS group, the names of most potential subjects were obtained from a list provided. They could then be approached at their home or at the CS work site. And for the Probation group particular steps could be taken to counteract the potential selection bias. It was pointed out to the officers that the research was independent of the management of the service and that in any event the questionnaire did not include any items concerning the offender's attitudes toward the specific officer involved. With regard to the selection of cases it was stressed that the selection must be arbitrary, in accord with the stated criteria. It was also emphasized that any potential subjects must understand that the research was totally independent of the probation service, that participation would have no effect on their sentence, and that their decision was entirely voluntary.¹⁵

It was of course not possible to determine to what extent these

15. These statements were repeated of course to all subjects prior to the interview. See Appendix 5. It has been suggested to me by British colleagues that my Canadian accent might have helped in conveying the impression of independence from the penal system.

instructions were successful in coping with the possible selection biases. Certainly it can be said that the probation officers readily understood the requirements of the research design. It should be noted here that nine fined offenders refused to be interviewed - in a few cases with considerable antagonism and suspiciousness - while this was true for only four of the probationers and three of the offenders serving CS orders. While this difference in 'refusal rate' might be taken as support for the contention that the fined offenders were less compliant and less inhibited in their responses, it showed that some potential subjects in both of the other groups also felt free to refuse. Some fined offenders, moreover, clearly found it simply inconvenient to participate, a factor which was to a lesser degree a problem for the other groups, since many were interviewed immediately after reporting or during their CS working hours. Further, in a few cases it seemed very likely, particularly with respect to the probationers, that some potential subjects deliberately failed to appear for the research interview as scheduled. Such 'passive refusal' was not as readily available to fined offenders.

Finally, if a refusal to be interviewed can be taken to indicate, if anything, relatively negative attitudes, the disproportionately high refusal rate for the Fine group would tend to raise¹⁶ the average attitude scores for this group. And since, as we shall see, the Fine group tended to score lower than the other groups on virtually all dependent variables, the effect would be to reduce the differences

16. For all variables the 'higher' the score the more 'positive' it is.

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between the groups rather than to exaggerate them. This effect would lead to more conservative conclusions and is therefore of less concern than it might otherwise be. Further, a positive bias resulting from such a 'self-selection' factor might if anything tend to counter-balance any positive biases affecting the selection of subjects for the other groups.

While uniform subject selection procedures would of course have been desirable, this was not feasible. All groups, however, were exposed to selection bias in some way, and there would seem to be no clear reason to think that the differences in procedure would seriously distort the outcome.

Measurement of the Dependent Variables

The study required several sorts of measures - the subjects' interpretations of the aims of their sentences, indications of the level of reasoning they employed, and measures of attitudes. The chief task of this section is to describe the steps needed for the selection of attitude measurement techniques and the construction of attitude scales. A few of the measures took the form of 'open-ended' questions intended simply as exploratory, and many were single-item rating scales. These require no comment here, and will be described in later chapters when the results are given. Similarly, the content of the various scales is provided along with the results.

The focus here, then, is on the attitude scales. It will be recalled that, although our main interest was in the effect of the sentences on the broad social and moral attitudes of the subjects,

it was considered best to proceed cautiously, and to explore first the subjects' attitudes to their sentence and to the personnel representing 'the system'. It was reasoned that it would be difficult enough to demonstrate differences between the groups attributable to differences in the rationale of the three sentences even for these immediate 'objects'. Accordingly, scales were developed first to measure these attitudes. A selection was then made from the items in these scales to construct scales of the subjects' 'deeper' social and moral attitudes. The resulting scales were thus not independent of the 'attitude to the sentence' and 'attitude to the system' scales. Finally, a limited investment was made in adapting, and applying selected items from several attitude scales available in the psychometric literature. We begin below with a brief discussion of the concept of attitude and the major steps required in attitude measurement.

Nature and Function of Attitudes

Like so many abstract or global terms which are commonly used, apparently well understood, and seemingly serve essential functions, the concept of attitude has proved surprisingly difficult to define and measure. It gained increasing attention with the development of social psychology in the early part of the present century and, in fact, was described by Allport in 1935 as the 'indispensable concept' of the discipline. While early definitions stressed a connection between 'mental state' and behaviour, it was soon apparent that behaviour did not necessarily imply any consistent underlying attitude, and, conversely, an attitude was not necessarily expressed

in any direct way in behaviour. Later definitions reflected the complexity of the relationship between attitudes and behaviour by defining an attitude in rather broad terms; e.g., as a 'generalized disposition toward a given object' (Cook and Selltitz, 1970, p. 33), or a 'state of readiness...to act and react...when confronted with certain stimuli' (Oppenheim, 1966, p. 105). Currently, the term attitude is typically defined in multi-dimensional terms as consisting of a cognitive element (opinions, beliefs, etc.) an emotional element (feelings, sympathies, prejudices), and a conative component (the tendency to act and react behaviourally) (Summers, 1970; Fishbein, 1967).

An attitude emerges, then, as an organization or cluster of feelings, opinions, and action tendencies; a set of working assumptions whereby the individual evaluates socially meaningful objects, responds affectively, and, if appropriate, is disposed to act in a certain direction. Further, attitudes vary on a number of descriptive dimensions. Oppenheim (1966, p. 108-9) for example, lists several: a) the intensity with which an attitude is held, b) the time period over which it tends to be stable and enduring, c) its importance for the individual, and d) the scope of its application. Attitudes also differ in direction (positive vs negative), in how 'rigidly' they are held, and in 'salience' - how readily they appear in response to any situation or stimulus.

In terms of levels of abstraction, the concept of attitude exists somewhere between a specific opinion, preference, or emotional

reaction on the one hand and a 'value structure' or ideology on the other. Somewhat akin to the perceptual assumptions and behavioural habits by which we lift an object or drive a car, attitudes enable us to operate efficiently and rapidly, without having to respond de novo to constantly changing social conditions. While attitudes are thus clearly functional, the relationship between attitudes and behaviour is extremely complex and in fact difficult to demonstrate (Wicker, 1973). This presents serious problems in attitude measurement, the topic which is taken up below.

Selection of the Attitude Indicator

Since attitudes, like all psychological attributes, are not directly observable, the investigator must first choose some form of (observable) behaviour, physical or verbal, which he considers to be an 'indicator' of the attitude in which he is interested. From there he can draw inferences, more or less directly, about the characteristics of the attitude itself. Whatever indicator or combination of indicators he chooses, he must then select from several techniques by which to record, measure, 'scale', or otherwise express his observations. How accurate his inferences will be depends upon how closely the indicator in fact represents the attitude in question (its validity) and how consistently it does so (its reliability). In this and the following subsections the procedures adopted for coping with these several requirements are described.

In accord with the multi-component nature of attitudes, it follows that attitudes may be expressed, and hence measured, in

many different ways - by what we say about our opinions, feelings or intentions, by how we behave or react emotionally in a given situation, by how we interpret a situation, and of course by various combinations of all three. Though 'multiple-indicator' methods of attitude measurement have been suggested (Cook and Selltiz, 1970), for the most part the investigator must choose rather sharply from among the indicators of attitude available.

For several reasons the self-report procedure was the method of choice for the present research. This procedure is the 'high road' in attitude measurement, the most direct method of obtaining an indication of attitudes. The chief difficulty with it arises from the manifest nature of the indicators; i.e., the subject may well perceive, or think he perceives, the purpose of the questions and deliberately or 'innocently' distort his responses to serve his own interests as he sees them. Techniques designed to overcome such an 'editing' or 'censoring' factor are particularly appropriate where the subject may, for various reasons, be unwilling to reveal his 'true' attitudes or to be unaware of them.¹⁷ The research concerned topics of a non-embarrassing or taboo nature about which the subject could be expected to have opinions and to be aware of them.

17. The possibility of contriving a situation whereby an offender's attitudes might be inferred from his behaviour was briefly considered. It was conceivable also that a 'projective' instrument could be designed. These are, however, not only difficult to construct and of doubtful validity and reliability without extensive development but, as indicated, did not seem necessary for the present research. See Summers (1970); Oppenheim (1966); and Selltiz and Jahoda (1959) for a discussion of such techniques.

The main worry, however, was whether the subjects would be willing to reveal their true attitudes. Would they fear that they might (literally) incriminate themselves or at least jeopardize their sentence by giving honest answers? As indicated earlier in the discussion of uncontrolled variables, considerable trouble was taken to assure the subjects of the confidential and independent nature of the research and to advise them that their participation was entirely voluntary. Further, since each subject was interviewed individually, it was also possible to make a special effort to win the trust of the more suspicious subjects. These steps appear to have been as successful as could be expected, at least successful in achieving a level of honesty sufficient to justify the self-report technique.

The research also required a procedure which was efficient, economical and portable and which could be fairly rapidly developed and easily scored. Finally, self-report procedures have received by far the most attention in the literature; many sources of error have been identified and methods of control devised, and a number of self-report techniques are available. These are discussed below.

Selection of a Self-Report Technique

After a half-century of rapid development in the field of attitude measurement, there are now a number of more or less sophisticated self-report scaling techniques to choose from (Oppenheim, 1966; DeGroot, 1969; Summers, 1970; Moser and Kalton, 1971). These vary considerably in several ways; for example: a) in the method of

selecting attitude statements from a pool of possible statements;
b) in the form in which the statements are put to the subject;
c) in the ease of administration of the scale; d) in the scoring of responses; and e) in whether the scale is 'reproducible'.¹⁸ A point commonly made in the literature is that the selection of a scaling technique is highly dependent upon the nature, purposes, and scope of the specific research it is to serve.

There were several considerations, then, which determined the selection of a self-report technique which would be appropriate for the present study. These may be listed briefly as follows:

- a) The nature and limited purpose of the research - the fact that the measures obtained were to be used for experimental rather than clinical purposes and were required to reveal differences between groups rather than between individuals - meant that relatively low standards of item validity and reliability could, if necessary, be tolerated.
- b) The scoring did not need to be cumulative so that a subject's responses to various items would be reproducible.
- c) Subject to what was said earlier in connection with the different methods of obtaining the subjects in the different groups, it could be expected that the subjects would be co-operative.

18. A scale is reproducible when a subject's score permits one to infer the subject's responses to the various items making up the scale. This occurs when items are arranged in some order of complexity or difficulty so that the subject's score indicates on what items he would have succeeded or failed.

Further, the attitudes concerned rather uncomplicated objects about which the subject could be expected to have attitudes and to be aware of them. These factors meant that a technique which was relatively manifest as to its purpose would be acceptable.

- d) Considering the fact that offenders as a group might be expected to have lower than average verbal skills and might be more or less suspicious, a technique with high 'face validity',¹⁹ and requiring fairly simple responses was desirable.
- e) The limited time and resources available for the project, and the amount of time each subject himself could be expected to spend on a voluntary basis, required a scaling technique which would permit efficient development of scales and which could be rapidly administered.

The technique which was considered to offer the greatest number of advantages in these terms for the present research was the Semantic Differential (SD) (Osgood, Suci, and Tannenbaum, 1957; Snider and Osgood, 1969). To determine a subject's response to a certain object, concept, person, etc., each 'question' concerning it is put in the form of a bi-polar adjective scale, and the subject's task is to rate the object in terms of each adjective pair, e.g., good - bad, fair - unfair, optimistic - pessimistic, etc. Since its beginnings in the 1950's in the context of research in psychological meaning, the

19. A test has 'face validity' if the items appear on grounds of logic or common sense to be related to the attribute being measured. See, e.g., Oppenheim, 1966; Cronbach, 1970.

SD has been applied widely and successfully in attitude research, with reported high reliability and predictive validity²⁰ when compared with the more traditional attitude scales. By judicious and imaginative selection of adjective pairs, perhaps selected with the aid of statistical techniques supporting the validity of the items chosen (see below), the investigator can tap the several dimensions of a concept which he considers relevant to his particular research objectives. Further, the format of the scales has high face validity, and permits extremely rapid collection of data. (See Appendix 3 for a detailed description of the SD technique.)

The SD technique was therefore used for eleven of the twelve multiple-item attitude scales constructed for the study. The exception was the Responsibility for the Offence scale which was composed of five ad hoc rating scales. (As we shall see in a moment this scale in any event had to be discarded since the items failed to show a sufficient degree of homogeneity.) The twelve scales were titled as follows:

Feelings after Sentence
Evaluation of Sentence
Responsibility for the Offence
Attitude to Magistrates
Attitude to Court Procedure
Attitude to Police
Attitude to Prosecutor
Sense of Justice
Fairness of System

20. 'Predictive validity' refers to the capacity of a test or test-item to predict a form of future behaviour thought to express the attribute the test purports to measure (Cronbach, 1960, p. 103).

Helpfulness of the System
Self Respect
Alienation

The procedures used for the selection of items in an attempt to construct reasonably valid and reliable scales are described below.

Scale Construction Procedures

The attitude scales were constructed by means of a combination of rational and empirical procedures.²¹ The steps are listed below:

- a) Each scale was composed of a number of items (bi-polar adjective pairs)²² and each item consisted of five intervals. The items were scored one to five, a high score indicating the 'positive' pole of the adjective pair. To control for a possible directional response set (see footnote 3 above) the direction of scoring of each item was randomly determined.²³
- b) Each scale item was selected first on the basis of its construct validity, its logical connection on theoretical grounds

21. Such a combination of procedures is common in attitude research. See, e.g., Oppenheim (1966, p. 138).

22. An exception was one item in the Attitude to Magistrates scale. A 'social distance' scaling technique (Bogardus, 1933) was used to determine the degree to which the subject felt he would be comfortable in social intercourse with the magistrates. The item was also used in the Alienation scale.

23. For ease in interpreting the results in later chapters, the adjective pairs are always given in the text and the tables in a negative-positive direction. In the actual administration of the questionnaire (Appendix 5), however, the direction of each item was random.

to the attitude to be measured (Cronbach, 1960, p. 105; Bohrnstedt, 1970). The choice of items on these grounds was fairly straightforward for the attitudes to the sentence and attitudes to the system scales (the first six scales listed above). Thus a feeling of hopelessness rather than hopefulness immediately after the sentence was considered a valid contributor to the Feelings after Sentence scale. The construct validity of the broader social and moral attitude scales (the last five scales listed above) was, however, much less apparent. It will be recalled (Chapter V) that these scales were composed of items previously used in the attitude to the sentence and the system scales. The 'constructs' here, e.g., the 'sense of alienation' 'sense of justice', etc., were of a much more general sort and depended on lengthier chains of theoretical inference. It was not obvious, for example, that a tendency to regard the magistrates as members of the 'working class' rather than the 'upper class' would be a valid indication of the subject's sense of alienation. Empirical support for the validity of such items was particularly required.

- c) The responses of the pilot subjects to the items were inspected. Those items which these subjects found to be ambiguous and which were apparently not consistently related to the attitude in question were discarded.
- d) After all of the data had been collected, the internal consistency of the scales was improved by means of item consistency analysis procedures. The relationships between the subjects'

item scores and their scale scores²⁴ were computed using the Pearson correlation coefficient. The item-test coefficients for each scale were computed separately for each group to ensure that all items were valid for all groups. Items which correlated poorly or inconsistently over the groups were discarded and a new set of item-test coefficients, applied to the remaining items, was calculated by the same procedure.²⁵

- e) As a further check on the extent to which the items of each of the SD scales would intercorrelate, the Cronbach alpha coefficient was also computed (Cronbach, 1951; Wiggins, 1973, p. 291). The data are given in Table V-1.²⁶ With the exception of the Responsibility for the Offence scale it will be seen i) that the coefficients for each scale appear roughly similar

24. The scale score was of course the sum of all item scores in the scale, and included the item score in question. Although ideally the score for the item under consideration should be removed in each case from the scale score, this means that the scale score has to be recalculated for each item-test analysis. This of course greatly increases the work required, and the item score is therefore typically left in the total score in this procedure. Where there are several items in a scale - which was always the case here - the effect is usually not considered significant enough to justify the additional work and, in any event, all item-test correlations are subject to the same error factor. See Oppenheim (1966, p. 138) on this topic.

25. See Appendix 4 for the Pearson item-test coefficients for all of the final scales.

26. The alpha coefficient is an estimate of the average correlation of all possible 'split-halves' of the items in a scale; i.e., the relationships between each item score and the score for all possible combinations of the other items in the scale are computed, and the 'average' correlation is estimated.

Table VI-1 Cronbach^a Alpha Coefficients

Scale	No. of items	Fine	Group Probation	CS	Average ^b
Feelings after Sentence	5	.63	.63	.57	.61
Evaluation of Sentence	5	.58	.62	.55	.58
Responsibility for the Offence	5	.10	.22	.01	.11
Attitude to Magistrates	11	.78	.78	.80	.79
Attitude to Court Procedure	5	.50	.56	.57	.54
Attitude to Police	7	.74	.69	.72	.72
Attitude to Prosecutor	7	.63	.72	.69	.68
Sense of Justice	6	.52	.39	.41	.44
Fairness of the System	5	.50	.32	.47	.43
Helpfulness of the System	6	.40	.39	.50	.43
Self Respect	7	.31	.48	.47	.42
Alienation	8	.56	.67	.66	.63

a. After Cronbach (1951).

b. Based on normalized distributions of the alpha coefficient (Hakstian and Whalen, 1976).

for all three groups, and ii) that in general the size of the coefficients indicates that the items in each scale inter-correlate at least to a moderate degree, high enough to provide useful empirical support to the validity of the scales for research purposes.²⁷ The discernible drop in the size of the

27. Alpha coefficients of .80 or higher are generally (continued)

coefficients for the Sense of Justice, Fairness of the System, Helpfulness of the System and Self-respect scales will be noted. As discussed above, the items for these scales (and also the Alienation scale) were selected from the previous scales. It is not surprising that they appear to be somewhat less internally consistent than those in the previous attitude scales where the 'object' of the attitude existed in reality and not as a purely theoretical construct.

The exceptionally low coefficients for the Responsibility for the Offence scale will also be noted. These coefficients clearly failed to provide useful support for the validity of the scale, and the scale was therefore discarded as a measure of attitude. The items making it up were considered, however, to be of some interest in themselves and are given brief attention later in the reporting of the results.

f) The time and resources available for the study did not permit an adequate test of the reliability of the questionnaire by means of developing equivalent forms or by re-testing. The essential defence of the cross-sectional design employed here, however, is that error due to random fluctuation in offenders' responses will be constant over the groups.

regarded as desirable, but this is considered a conservative standard. In general, the level of internal consistency required for a test to be useful varies with its purposes (Wiggins, personal communication).

Additional Scales

As indicated earlier, it was considered doubtful that it would be possible to demonstrate the effects of the different sentences in terms of standard social attitude scales. A 'test of the water', however, was considered warranted. Accordingly a short anomaly scale and selected items from two other social attitude scales were collected and formed into 19 questions. The order of presentation of the items, and the direction of scoring of each item, was randomly determined. They were placed at the end of the questionnaire and described to the subjects as 'not directly connected with the law or the legal system' and intended 'to get an idea of [his] general outlook'. (See Appendix 5, questions 307-326.)

The items were selected from the following sources:

- a) Srole's (1956) anomaly scale is a measure of alienation mostly in the sense of despair and social isolation. It consists of only five items, making it possible to use all of them. It has been found, however, that in its original form (statements requiring the subject to agree or disagree) the scale was highly susceptible to an acquiescent response set (Carr, 1971). In this study, therefore, each of the five items in the scale was presented as a forced choice question which required the subject to choose between the two obverse forms of each item proposed by Carr (1971). (See Appendix 5, questionnaire items 308, 311, 314, 317, and 321.)
- b) Berkowitz and Daniels (1964) adapted a test of social responsibility

(developed by Harris, 1957) for use with adults. Six items which were considered suitable for an offender population were selected. The original form required the subject to agree or disagree with a statement. For ease of administration and scoring and as a control for a possible acquiescent response set, each question was put in the form of two opposing statements and the subject was required to choose between them. (See Appendix 5, questions 309, 312, 315, 319, 322, and 325).

- c) Rotter's (1972) Internal-External scale is a test of the degree to which an individual regards events as determined by his own efforts or by forces beyond his control; in short it is a test of the sense of 'powerlessness'. As such it was considered a useful additional measure of alienation. Eight items which were considered suitable on the basis of their clarity and face validity for a group of male offenders and which had, relative to other items in the scale, high item-test correlation coefficients (Rotter, 1972), were chosen. No modification of the original items was required, since each took the form of two opposing statements, requiring a choice by the subject. (See Appendix 5, questions 307, 310, 313, 316, 318, 320, 323, and 326.)

The set of 19 questions thus all took the same form, covered in a very rough way several related attitudes, and could be administered very rapidly. The subject's total score was calculated separately for each group of items. The modifications to what we will

call the Berkowitz and Daniels scale and the Rotter scale do some violence to the original scales, and these measures are defended here only as ad hoc exploratory tools.²⁸

Statistical Note

The study required the control of the extraneous variables relevant to outcome by statistical methods. Non-parametric methods, specifically the construction of weighted average partial tables, could have been used for this purpose in view of the ordinal level of measurement represented by the rating scales (See, e.g., Blalock, 1970). This procedure, however, would have required dichotomizing the score frequency distributions and thus the loss of considerable information. Further, as indicated in Chapter V it was expected that the effect of CS, particularly on broad social attitudes, would be weak, and therefore it was desirable that the most powerful suitable statistical procedures be applied. The analysis of variance (anova) and the analysis of covariance (ancova) were therefore used. The use of such parametric tests for this type of data may be questioned, however, on the grounds that the measures were not based on an interval level of measurement, and that the equality of variance between the groups and normality of the population distributions could not be assumed. Glass, et al (1972), however

28. The Pearson item-test coefficients for the Berkowitz and Daniels items and the Rotter items are, however, included in Appendix 4. These suggest a moderate level of homogeneity among the selected items.

have demonstrated that the violations of most of the assumptions of this sort must be extreme before the use of the anova and ancova is contra-indicated. Examination of the characteristics of the data here showed them to be well within the tolerance of the anova and ancova techniques. These procedures were therefore used.

As a matter of form in the statistical analysis of the scale score results in Chapters VIII, IX, and X, the results for the anova are presented first, followed by the ancova. The anova provides a base from which the effects of the control variables can be reckoned. The ancova is, in accord with the requirements for control of the sentence severity variable discussed earlier, then first presented taking sentence type expected as the measure of sentence severity. Then, if a significant difference still remains, it is presented again with perceived sentence severity added as a further control for sentence severity. The F-ratios for the control variables ('covariates') are also included to show the degree to which each was important in the analysis.

Data Collection Procedures

Many of the problems associated with the collection of the data - obtaining access to offenders, selecting subjects, making suitable arrangements for the interview, etc. - were discussed earlier. The questionnaire is given in Appendix 5, including a description of the approach to the potential subjects. It remains here to describe very briefly the pilot procedure used and outline the broad rational of the questionnaire.

The Pilot Questionnaire

The research resources, and the fact that it soon seemed apparent that the number of suitable subjects available in the selected catchment areas would be limited, meant that only a small pilot study could be mounted. Six fined offenders were interviewed, four probationers and four serving CS sentences. So far as possible, however, these subjects were selected so as to represent a variety of offender types (in terms of age, offence, etc.) within each group. The pilot study showed that it would be feasible to select, approach, and obtain the co-operation of sufficient numbers of offenders.

The questionnaire was revised several times during the course of the pilot phase. The aim at this stage was to eliminate or re-design items which appeared for one reason or another to be of doubtful validity or reliability.

The Questionnaire

In keeping with the fact that the study required several types of data, the questionnaire incorporated a variety of techniques. 'Open ended' or 'unstructured' questions were generally placed first in a section, followed by 'structured' or 'forced choice' questions and rating scales. Topics were ordered with a view to enabling the interview to proceed in as 'natural' or logical a way as possible while preserving a reasonably standardized format in an effort to keep any 'experimenter effect' to a minimum. In general the interview is best described as semi-structured. On average it took about 50 minutes, with a range from 35 to 90 minutes.

The format of the questionnaire in detail will be evident from the questionnaire itself given in Appendix 5. The opening routine questions concerning the subject's identity, residence, etc. served to begin the establishment of rapport. In broad terms the order of topics thereafter was as follows: a) general feelings about the sentence and rating of its severity; b) ratings of feelings about, and evaluation of, the sentence; c) interpretations of the rationale of the sentence; d) ratings of the future effects of the sentence; e) attitudes about the offence and the conviction; f) general attitudes about the law; g) ratings of attitudes to the magistrates or judge, the court procedure, the police, and the prosecutor; h) demographic data and criminal record data; and finally i) social attitudes.

CHAPTER VII: THE GROUPS

In the previous chapter the logic of the quasi-experimental design selected for the study was discussed, and a description was given of the several steps required for the attempt to control the influence of extraneous variables. In this chapter we proceed, therefore, a) to a comparison of the groups in terms of the selected control variables and b) to determine whether, even if the groups do differ on a variable, the variable is in any event related in any appreciable way to the measures of outcome. In theory, at least, by the end of the chapter the analysis should have provided a reasonable idea of the comparability of the groups. More precisely, we should know which of the control variables are related to what specific measures of outcome.

The rationale justifying the selection of each of the variables was of course given in the previous chapter, and we will have little more to say here about the relationships (or lack thereof) between the control and dependent variables as they emerge. Our interest is, of course, primarily to control them. The order of presentation used in the previous chapter is retained here, however, for ease of reference concerning the rationale.

1. Catchment Area

Table VIII-1 shows by inspection that the groups differed substantially in catchment area.¹ The relevance of the variable to the

1. The variable code numbers are included in the tables for ease of reference. With some exceptions the code numbers (continued)

outcome measures was therefore tested.

Table VII-1 Catchment Area (102)

Areas	Fine		Probation		CS	
	n	%	n	%	n	%
Cambridge	35	83.3	16	38.1	0	0.0
Nottingham	1	2.4	26	61.9	30	62.5
Inner London	0	0.0	0	0.0	18	37.5
Bedford	6	14.3	0	0.0	0	0.0
Total	42	100.0	42	100.0	48	100.0

Since only the Probation and CS groups contained subjects selected in reasonable numbers from two areas, the computations were based on the combined subjects from these two sentence groups only. The subjects were dichotomized to form two 'area groups' of subjects - those from Nottingham city and district and those from Cambridge or Inner London. This procedure provided sufficiently large numbers for a reasonable test of the relevance of the variable to outcome.

The relationships² proved in all instances to be weak and

follow the numerical order of the items in the questionnaire (Appendix 5).

2. Because of limitations of space, the correlation co-efficients indicating the statistical relationships between all control and dependent variables discussed in this chapter are given in Appendix 6. Several types of co-efficient were used depending upon the characteristics of the distributions concerned in each computation: the Phi co-efficient (ϕ) where both the control and dependent variable were dichotomous, the Point-biserial co-efficient (r_{pb1}), where one was dichotomous and the other continuous, and the Pearson product-moment (continued)

inconsistent, none reaching the .05 level of significance chosen for this test.

2. Sentence Interview Interval

The data here are given in Table VIII-2. It will be seen that the groups differed significantly in the mean time between the sentence and the interview, mainly due to the relatively short interval for the CS group. The CS group also differed from the others as regards the variance of the distributions.

Table VII-2 Sentence-Interview Interval (weeks) (106)

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>CS</u>
Mean	25.8	28.7	17.9
Standard Deviation	15.2	17.4	10.9

Significance Tests

Difference between means: $F(2,129) = 6.51, p < .05$.

Difference between variances: Fine vs Prob.: $F(41,41) = 1.30$, ns.; Prob. vs CS: $F(41,47) = 2.55, p < .01$; Fine vs CS: $F(41,47) = 1.96; p < .01$.

co-efficient (r) where both were continuous. The direction of coding for all variables is also indicated in the Appendix. This permits the reader to interpret the meaning of a positive or negative sign for any specific co-efficient.

These results would seem to reflect the differences in selection procedures applicable to each group, described in the previous chapter. While the CS subjects were fairly readily obtained from lists provided, it proved necessary to select appropriate candidates for the other groups by a search of the probation files or court records. This required going back further in time.

The difference between the CS group and the others is, however, only about two months and the test of the relationships between sentence-interview interval and the dependent variables resulted in extremely low co-efficients in almost all instances. The exceptions were the co-efficients describing the relationships between this variable and the effect of the sentence on self-esteem (158) and the alienating effect of the sentence (162), where the co-efficients respectively were $-.15 (p < .05)$ and $-.25 (p < .01)$. The results suggest that the longer the interval the more negative the attitude scores on these measures.

3. Interview Setting

Table VII-3 shows the expected difference between the groups in the location of the interview, arising from the variety of procedures used to select and approach the subjects in the different groups.

Table VII-3 Interview Setting (107)

Setting	Fine		Probation		CS	
	n	%	n	%	n	%
Subject's home	42	100.0	22	52.4	33	68.8
CS site	0	0.0	0	0.0	14	29.2
Probation office	0	0.0	19	45.2	1	2.1
Other	0	0.0	1	2.4	0	0.0
Total	42	100.0	42	100.0	48	100.0 ^a

a. Error in the present columns of all tables is due to rounding.

Since only the Probation and CS subjects were interviewed in appreciable numbers in two different locations these groups were combined for the test of the relationship between the interview setting variable and the outcome measures. Two groups were formed: those interviewed in their own homes and those interviewed elsewhere, i.e., at a CS work site or in a Probation office. None of the correlation co-efficients reached the .05 level of significance.

4. Court Type

The data are given in Table VII-4 where again the expected differences between the groups on this variable are found. None of the relationships between court type and the dependent variables, however, save two, emerged as significant. The exceptions were the relationship between court type and the subjects' attitude to the conviction (168) ($\phi = .34$, $p. < .001$) and attitude to the offence (169) ($\phi = .25$, $p. < .01$), suggesting that the subjects tried in the Crown Courts showed less tendency to deny the offence or to justify it.

Table VII-4 Court Type (108)

Court	Fine		Probation		CS	
	n	%	n	%	n	%
Magistrate's Court	28	66.7	37	88.1	39	81.3
Crown Court	14	33.3	5	11.9	9	18.8
Total	42	100.0	42	100.0	48	100.0 ^a

a. Error due to rounding

Significance test. $X^2 = 6.04$, 2 df, $p. < .05$.

5. Sentence Severity

In the previous chapter it was concluded that the control of this variable required two separate measures: a) the type of sentence the subjects expected and b) their perception of the severity of their sentences. The data for these measures are given in tables VII-5 and VII-6 respectively.³

The statistical analysis demonstrates the clear differences between the groups on both of these variables. As anticipated, a relatively large portion of the CS subjects, and a notably small proportion of the fined subjects, expected to be sent to prison.

3. The data (in the form of means, standard deviations and ranges) describing the actual sentences received by the three groups are given in the previous chapter (footnote 9).

Table VII-5 Type of Sentence Expected (121)

Sentence Type	Fine		Probation		CS	
	n	%	n	%	n	%
Fine	18	42.9	8	19.0	6	12.5
Probation	1	2.4	4	9.5	1	2.1
Community Service	0	0.0	0	0.0	1	2.1
Suspended Sentence, abs. or cond. Discharge	7	16.7	3	7.1	3	6.3
Prison	16	38.1	27	64.3	37	77.1
Total	42	100.0	42	100.0	48	100.0

Significance Test. Comparing the group distributions dichotomized to separate those expecting a prison sentence from the remainder: $X^2 = 14.61$, 2 df, p. < .001.

Table VII-6 Perceived Sentence Severity (123)

Perceived Severity	Fine		Probation		CS	
	n	%	n	%	n	%
1 (very light)	5	11.9	10	23.8	18	37.5
2	4	9.5	12	28.6	15	31.3
3	9	21.4	3	7.1	6	12.5
4	3	7.1	6	14.3	1	2.1
5	11	26.2	6	14.3	6	12.5
6	8	19.0	5	11.9	1	2.1
7 (very heavy)	2	4.8	0	0.0	1	2.1
	42	100.0	42	100.0	48	100.0

Significance test. Comparing the group distributions dichotomized at the median (Rows 1, 2/3-7): $X^2 = 20.46$, 2 df, p. < .001

Moreover, both measures proved to be significantly related - often to the .001 level of statistical significance - to the majority of the dependent variables.⁴ Positive attitudes to the sentence, to the system personnel, and hence positive 'social attitudes' derived from these measures, tended to be associated with receiving a non-custodial sentence when a custodial sentence was expected and, if anything more strongly, with the perception of a sentence as lenient.

It became apparent, then, that these two measures of sentence severity would need particularly to be taken into account in reporting the results for most of the measures of outcome.

6. Offence Type

As indicated in the previous chapter the subjects' offences were categorized in sufficient detail to bring out the possible differences between the groups. The result was that a fairly wide variety of offence types are represented. The data are given in Table VII-7.

The results appear on inspection to suggest several differences between the groups on this variable, particularly between the Fine group and the others. The Fine group yielded a rather surprising number of subjects in category two, only one subject each in categories three and four, relatively more than the other groups in categories five and six, and none at all in the miscellaneous category.

4. Since so many of the dependent variables are affected, and since the coefficients are given in Appendix 6, they are not listed here.

Table VII-7 Offence Type (164)

Offence	Fine		Probation		CS	
	n	%	n	%	n	%
1. Theft, attempted theft, possession, handling, receiving, shop-lifting	10	23.8	12	28.6	18	37.5
2. Burglary, trespass with intent, equipped to steal, robbery	15	35.7	6	14.3	4	8.3
3. Taking and driving away, taking vehicle without owner's consent	1	2.4	5	11.9	8	16.7
4. Fraud, forgery, false accounting, obtaining by deception, embezzlement	1	2.4	6	14.3	3	6.3
5. Assault, affray, drunk and disorderly, criminal damage, wounding	10	23.8	3	7.1	6	12.5
6. Obstructing/assaulting police officer or traffic warden	5	11.9	0	0.0	3	6.3
7. Miscellaneous (possession of soft drugs, arson, theft from own gas metre, self-injury, shop-lifting by alcoholic, assault on spouse.	0	0.0	10	23.7	6	12.5
Total	42	100.0	42	100.0	48	100.0

Significance test. Comparing the group distributions dichotomized to separate those convicted of property offences (first four categories) from the remainder: $X^2 = 0.27$, 2 df, n.s.

In view of these differences consideration was given to an attempt to achieve better matching of the groups at least by discarding the Probation and CS subjects falling in the miscellaneous offence category. In general, however, these subjects did not give the impression that they differed in other respects from the other offence groups and in fact many had expected to be sent to prison. Some did appear to have been convicted for offences which were relatively minor, but far from being a disadvantage this fact was considered useful for the matching of the groups. That is, despite the rather formidable list of offences in the Fine group, it was feared that many cases would be less 'serious' than those for the other groups. One way to cope with this was to include some of the 'less serious' offences in the other groups.

Given the variety of offence types and the small number of subjects in many categories, as the table indicates only one test of the difference between the distributions was carried out. As shown, there was no significant difference in the frequencies of property and non-property or miscellaneous offences.

As indicated above, inspection does suggest that there may have been significant differences between the groups in some offence categories. The numbers of subjects in any one category, however, did not justify tests of possible relationships between specific offence-types and dependent variables. In general, all of the distributions would appear to include a reasonable representation of offences. It is considered unlikely that such differences as there might have been would be sufficient to influence the outcome measures to an extent not

largely taken into account by such variables as sentence severity or criminality. The data does provide some impressions, however, of the make-up or character of the different groups. We will return to this at the end of the chapter.

7. Plea

The results for this variable are given in Table VII-8. It will be noted that there are no significant differences between the groups in the proportion pleading guilty and not guilty.

Table VII-8 Plea (167)

<u>Plea</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
Guilty	36	85.7	39	92.9	44	91.7
Not guilty	6	14.3	3	7.1	4	8.3
Total	42	100.0	42	100.0	48	100.0

Significance test. $X^2 = 1.40$, 2 df, n.s..

8. Subject's Understanding of the Questionnaire

The data here are presented in Table VII-9. No significant differences in the distributions are shown, and all levels of understanding appear to have been reasonably represented in all groups.

Table VII-9 Subject's Understanding of the Questionnaire (177)

<u>Rated Understanding</u>	<u>Fine</u>		<u>Probation</u>		<u>CS</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
Very low	1	2.4	2	4.8	3	6.3
Low	2	4.8	5	11.9	9	18.8
Intermediate	25	59.5	24	57.1	19	39.6
High	10	23.8	7	16.7	8	16.7
Very High	4	9.5	4	9.5	9	18.8
	42	100.0	42	100.0	48	100.0

Significance test. Comparing the group distributions dichotomized at the median (Rows 1-3/4, 5): $X^2 = 0.94$, 2 df, n.s..

9. Subject's Moral Development Level

The results are given in Table VII-10. The lack of any significant difference between the groups would not seem surprising. The personality characteristic described is not, by definition, observable to the sentencer and not easily discernible. It is unlikely that it would be taken into account in sentencing policy or practice except indirectly and unsystematically. Subject to the limitations of the rough procedure used to measure this variable, it would seem fair to conclude that there was no appreciable difference between the groups in moral development level.

Table VII-10 Subject's Moral Development Level (179)

Rated Level	Fine		Probation		CS	
	n	%	n	%	n	%
Very low (Amoral/Instrumental)	11	26.2	9	21.4	8	16.7
Moderately low (Conventional-Insecure)	11	26.2	14	33.3	15	31.3
Moderately high (Conventional/Positive)	12	28.6	15	35.7	21	43.8
High (Principled)	8	19.0	4	9.5	4	8.3
Total	42	100.0	42	100.0	48	100.0

Significance test. $\chi^2 = 5.21, 6 \text{ df}, n.s..$

10. Age

The data describing the subject's age distributions are given first in Table VII-11. It will be seen that while there were no significant differences between the group means, the probation group did differ significantly from the others in the variance or dispersion of the subjects' ages.

To examine these differences further, the data are also given in the form of frequency distributions in Table VII-12. (The distribution of ages for all subjects was divided into quartiles and the frequencies in each quartile for each group were then tallied.) The Chi Square test reveals again the significant difference between the distributions.

Table VII-11 Age (Years) (259)

Measure	Fine	Probation	CS
Mean	23.8	24.6	23.7
Standard Deviation	6.0	7.7	5.7

Significance tests.

Difference between means: $F(2,129) = 0.24, n.s.$
 Difference between variances: Fine vs Prob., $F(41,41) = 1.64, p. < .10$; Fine vs CS, $F(41,47) = 0.02, n.s.$; Prob. vs CS, $F(41,47) = 1.67, p. < .05.$

Table VII-12 Age (259)

Age category	Fine		Probation		CS	
	n	%	n	%	n	%
17 - 18 years	9	21.4	15	35.7	7	14.6
19 - 21 years	11	26.2	7	16.7	14	29.2
22 - 27 years	10	23.8	6	14.3	18	37.5
28 - 40 years	12	28.6	14	33.3	9	18.8
Total	42	100.0	42	100.0	48	100.0

Significance test. $\chi^2 = 12.58, 6 \text{ df}, p. < .05$

It might be assumed that, since the means are roughly equal, the effect of the age variable - even if it did prove to be related to outcome - would be equal for all groups. The greater numbers of probationers in the extreme age categories would logically balance each other. This would assume, however, that any relationships between

age and the dependent variables were linear. They might, however, be non-linear so that, for example, the correlation co-efficients were determined mostly by extreme attitudes in the older subjects. The result would be that the difference in the age variances would influence outcome despite the similarity of the means.

It was therefore considered safer to test the relevance of the age variable to outcome and to control for its possible effects where necessary. The resulting co-efficients showed indeed that the variable was significantly related to several attitude scales: attitude to the magistrates ($r=.16$, $p. < .05$), attitude to court procedure ($r=.21$, $p. < .01$), attitude to the prosecutor ($r=-.33$, $p. < .001$), alienation ($r=.19$, $p. < .05$), Berkowitz and Daniels' (1964) social responsibility scale ($r=-.26$, $p. < .001$), and social distance from the magistrates/judge ($r=.21$, $p. < .01$).

11. Marital Status

The data here are given in Table VII-13. It is apparent that the significant difference between the groups was due to the disproportionate number of single, divorced and separated subjects in the Probation group. This result would seem consistent with the age data given just above. The Probation group contained relatively large numbers of offenders beneath the usual age of marriage and older offenders many of whom might have been placed on probation partly because of the lack of the stabilizing effect of marriage.

Table VII-13 Marital Status (268)

Status	Fine		Probation		CS	
	n	%	n	%	n	%
Married	19	45.2	9	21.4	22	45.8
Single	21	50.0	28	66.7	24	50.0
Separated or Divorced	2	4.8	5	11.9	2	4.2
Total	42	100.0	42	100.0	48	100.0

Significance test. Comparing the group distributions dichotomized to separate those married from the remainder: $X^2 = 7.05$, 2 df, $p. < .05$.

The test of the relationships between marital status and the dependent variables showed, however, that only three of the co-efficients were significant: the married subjects tended to express positive feelings after sentence ($r_{pbi} = -.16$, $p. < .05$), to show a higher sense of social responsibility on the Berkowitz and Daniels' (1964) scale, and (perhaps somewhat inconsistently) to show greater sense of social distance from the magistrates ($r_{pbi} = .15$, $p. < .05$).

12. Education

The data describing the results of the several measures of education taken are given in Table VII-14 in a summary form.⁵ Although the

5. To save space the data are given in percentages only. The first two variables (261 and 262) are dichotomized at the median and only one side (the 'positive' side) of each dichotomy is described. The third variable (263) was dichotomous by design. The construction of the education index (278) was explained in the previous chapter. These procedures apply also to the employment stability and criminality variables which follow, i.e., continuous measures are dichotomized at the median while some measures are dichotomous by design, and only the positive side of each dichotomy is given.

TABLE VII-14 Education Measures

<u>Measure</u>	<u>Category</u>	<u>Fine</u> %	<u>Probation</u> %	<u>CS</u> %	<u>X^{2a}</u>	<u>P. <</u>
Type of school attended (261)	Higher than Secondary/Modern	4.8	7.1	6.2	0.21	n.s.
School leaving age (262)	16 yrs. or more	23.8	14.3	27.1	2.26	n.s.
Took further education or training after leaving school (263)	Yes	45.2	23.8	43.8	5.20	.10
Index (278)	High education (above median score)	47.5	28.6	50.0	4.86	.10

a. Significance tests. The Chi Square tests are based on the dichotomized frequency distributions of each variable (2 df). n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

groups appear reasonably similar with respect to the first of the two education measures, they differ on the third and the fourth: the probationers were less likely to have taken further education or training courses since leaving school, and show a lower index score.

For purposes of testing the relationship between this variable and the outcome measures, the third education measure - whether or not a subject had taken further education or training since leaving school - was considered to be best one for two reasons: a) the Chi Square test shows the difference between the groups on this variable to be the strongest, and, particularly, b) another study (Simon, 1971) had found that this measure most reliably distinguished delinquents from non-delinquents.

The tests of the relationship between this measure and outcome showed it to be related only to one of the dependent variables: the subject's rated attitude to the conviction (168) ($\phi=.24$, $p. < .01$); i.e., the lower level of education or training was associated with a tendency to deny the offence.

13. Employment Stability

Since this variable, like the previous one, comprises several separate measures, the data are again presented in summary form (Table VIII-15). With the exception of the index (279) it will be

Table VII-15 Employment Stability Measures

<u>Measure</u>	<u>Category</u>	<u>Fine</u> %	<u>Probation</u> %	<u>CS</u> %	<u>X²^a</u>	<u>P. <</u>
Currently employed (264)	Yes	85.7	78.6	77.1	1.17	n.s.
Employed when sentenced (265)	Yes	88.1	76.2	79.2	2.11	n.s.
Occupational status (266)	Skilled manual or better	47.6	31.0	45.8	2.94	n.s.
Longest steady employment (267)	24 mos. or more	57.1	35.7	50.0	4.02	n.s.
Index (279)	High employment stability (above median score)	66.7	30.9	56.2	11.39	.01

a. Significance tests. The Chi Square tests are based on the dichotomized frequency distributions of each variable (2 df). n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

seen that the groups do not differ significantly on any of the measures. The Fine group, however, consistently scores more 'positively' than the other two, although the CS group is usually quite close behind. The Probation group appears to drop noticeably behind the others in occupational status and length of steady employment.

When these suggested trends are combined in the index score, the difference between the groups, particularly between the probationers and the others, becomes clear. The Probation group appears occupationally the least stable of the groups and the Fine group perhaps marginally the most stable.

The employment stability variable, further, proved to be significantly related to several of the dependent variables: attitude to the presecutor ($r_{pbi}=.19$, $p. < .05$), the alienation scale ($r_{pbi}=.19$, $p. < .05$), the Rotter (1966) internal-external scale items ($r_{pbi}=-.24$, $p. < .01$), Berkowitz and Daniels' (1964) social responsibility scale ($r_{pbi}=-.26$, $p. < .001$), attitude to the conviction ($\phi=-.18$, $p. < .05$), social distance from the magistrates/judge ($r_{pbi}=.23$, $p. < .01$), and change of attitude toward the system ($r_{pbi}=.16$, $p. < .05$).

14. Criminality

The results are given in summary form in Table VII-16. It is gratifying that the groups appear reasonably comparable in terms of several of the items, and on only one of them, apart from the index, does the difference exceed the .10 level of significance. The apparent trend of the group scores, however, strongly suggests that the groups do differ, and this is reflected in the final index score. The

Table VII-16 Criminality Measures

Measure	Category	Fine %	Probation %	CS %	X ² ^a	P. <
Number of previous (non-motoring) convictions or findings of guilt (269)	Three or more	47.6	47.6	66.7	4.47	(.11)
Age at first conviction or finding of guilt (270)	15 yrs. or less	42.9	47.6	54.2	1.17	n.s.
Number of previous committals to prison (271)	One or more	35.7	31.0	50.0	3.75	(.16)
Time since last conviction or finding of guilt (272) b	18 mos. or less	51.6	61.1	50.0	1.08	n.s.
Time since last release from custodial sentence (273) c	24 mos. or less	40.0	38.5	45.8	0.21	n.s.
Alcohol/Drug involvement (274)	Yes	38.1	28.6	16.7	5.24	.10
Parole/Probation/Bond status (275)	Yes	14.3	31.0	25.0	3.34	n.s.
Family criminal record (276)	Yes	47.6	26.2	35.4	4.20	n.s.
Associates' criminal record (277)	Most have record	35.7	47.6	47.9	1.69	n.s.
Index (280)	High criminality (above median score)	42.9	35.7	60.4	5.93	.10

a. Significance tests. The Chi Square tests are based on the dichotomized frequency distribution for each variable (2 df). n=42, 42, and 48 for the Fine, Probation and CS groups respectively, unless otherwise indicated.

b. Where applicable.

c. Where applicable.

significantly higher rate of offences involving alcohol or drugs (mostly alcohol) in the Fine group is not surprising in view of the offence data reported earlier (i.e. the incidence of common assault, assault on police, etc.). It is also noteworthy that on two measures which are commonly considered to be the 'hardest' predictors of recidivism - number of previous convictions and committals to penal institutions - the CS group appears to differ from the others. Overall, the pattern of the data would seem to suggest that of the three groups the CS group is the most criminal in terms of those measures, the Fine group intermediate, and the Probationers the least.

The results for the various measures of criminality thus provide an impression of the character of the groups on this variable, and more will be said about this shortly in the summary of the chapter. For purposes of statistical control, however, only two measures which statistically distinguished the groups and which on rational grounds were considered to be the most valid measures of criminality were chosen: a subject's number of previous convictions (269) and his index score (280).

The subject's number of previous convictions proved to be significantly related to three dependent variables: feelings after sentence ($r=.26$, $p. < .001$), fairness of the system ($r=.23$, $p. < .01$), and sense of justice ($r=.17$, $p. < .05$). The criminality index was also significantly related to three measures of outcome: feelings after sentence ($r=.29$, $p. < .001$), evaluation of the sentence ($r=.15$, $p. < .05$), and Berkowitz and Daniels' (1964) social responsibility scale ($r=.15$, $p. < .05$). The index approached a significant relationship

with two further measures: fairness of the system ($r=.14$) and Rotter's (1966) internal-external scale factors ($r=.14$).

The positive relationships between level of criminality and the subjects' attitudes is not what one would expect, and bears comment. Very likely it was because of the fact that the more criminal subjects may have been the ones who expected a prison sentence or at least a more severe sentence than the one they received. And, as we saw earlier, a subject's perception of his sentence as lenient was positively related to his attitudes, particularly his attitudes surrounding his sentence which appear here. It follows that the relationships found in this sample between criminality and attitude would be positive.

Summary and Conclusions

The results of the analysis of the control variables described in this chapter are given in summary form in Table VII-17. It will be seen that, as anticipated, the groups differ to a statistically significant or near-significant degree on many of the variables. The data indeed appear to be consistent with the impressions of the make-up of each group formed during the collection of the data. The Fine group, for example, had appeared the most stable of the groups in social and economic terms, and while the offenders in this group frequently had extensive criminal records, their criminality seemed generally less serious than that, for instance, of the CS subjects. The greater incidence of alcohol involvement and of conviction for assault or obstructing police constables among the offenders in this group was also noted at that time.

Table VII-17 Summary of Results for the Control Variables

<u>Control Variable</u>	<u>Difference between Groups</u>	<u>No. of Significant Relationships with Dependent Variables^a</u>
1. Catchment Area (102)	yes	0
2. Sentence-Interview Interval (106)	yes	1
3. Interview Setting (107)	yes	0
4. Court Type (108)	yes	2
5. Sentence Severity:		
Type of Sentence expected (121)	yes	16
Perceived Sentence Severity (123)	yes	19
6. Offence Type (164)	no	Not applicable
7. Plea (167)	no	Not applicable
8. Understanding of the Questionnaire (177)	no	Not applicable
9. Rated Moral Development Level (179)	no	Not applicable
10. Age (259)	yes	5
11. Marital Status (268)	yes	3
12. Further Education or Training (263)	yes	1
13. Employment Stability Index (279)	yes	7
14. Criminality:		
Number of Previous Convictions (269)	yes	3
Criminality Index (280)	yes	1

a. The relationships were computed for 25 dependent variables.

As regards the Probation group, it had seemed that there were greater numbers of subjects in the extreme age categories. There also had seemed to be relatively more offenders in this group who were socially or psychologically unstable or maladjusted and who were convicted for the more unusual offences. As it has turned out, the offence-type data, the indices of social stability (marital status, education, employment stability), and to some extent the criminality scores all would appear consistent with such impressions.

The CS group, finally, had appeared to be the most criminal in a conventional sense, the 'toughest' or 'hardest' group; not necessarily unstable, but showing the more extensive criminal records.

The degree of similarity between the groups should, however, be noted. For example, considering the policy which (at least in some districts) recommended the restriction of CS to offenders who would otherwise be imprisoned, the CS group contained a reasonable number of offenders with only very limited prior criminal records. On the other extreme both the Fine and Probation groups contained quite respectable numbers of offenders with appreciable records. It should be observed further that the groups were different in different ways: the CS and Probation groups, for instance, appeared similar in the incidence of criminal records among the associates of the offenders, while the Fine and CS groups were roughly similar in employment stability, and particularly in educational achievement.

But the most significant question for control purposes was of course the degree to which the differences between the groups would be

likely to affect outcome. For most of the variables it seems evident that strong and consistent relationships with offender attitudes simply did not appear. The most notable exceptions - justifying our earlier (Chapter VI) concern about adequate control of this variable - were the severity of sentence measures (121 and 123). Even here, however, the relationships hold most strongly for those attitude scales which pertain fairly directly to the sentence, and not to all measures.

The conclusion must be that while the groups differed significantly in a number of ways - differences which are not surprising considering the differences in sentencing policy with respect to the three sentences - the influence of such differences on the attitudes measured to a degree that would seriously distort the results is usually doubtful. The important exceptions were identified and, as will be shown, could be subjected to statistical control procedures.

CHAPTER VIII: ATTITUDES TO THE SENTENCE

This chapter is the first of three describing the results of the study. In accord with the research plan outlined in Chapter V, we begin here with the examination of the subjects' attitudes to the sentence itself. In the first section, however, we will deal briefly with the question of how the subjects perceived the aim or aims of their sentences.

Interpreting the Aims of the Sentence

The predictions about the effects of the fine, probation and CS on offenders' attitudes were based of course on the argument that they expressed different sentencing aims, i.e., while all of these sentences sought to change offenders' attitudes, they were based on different psychological assumptions about how such attitudes are changed. It was considered necessary, however, to determine to what degree the subjects themselves would perceive the predominant aim of their sentences, particularly the chief aim of CS, in accord with our assumptions. It was predicted that the Fine and Probation groups would perceive their sentences as mainly, respectively, punitive and rehabilitative. The CS subjects were expected to vary widely, but to apprehend the reparative aspect of their sentence in significantly large numbers when forced to choose between the punitive, rehabilitative and reparative aims.

The data were obtained, then, by means of two questions, one open-ended and one forced-choice. The first question was as follows:

Why do you think you were given your type of sentence? What do you think was the main purpose of the magistrates/judge? (143)

The subject's first clear response to the question was taken as his reply. The goal was to obtain an indication of what was uppermost in his mind, and to retain as much objectivity as possible by reducing interpretation of the responses to a minimum. The subjects were not prompted except to clarify the question or to encourage them, again for fear of influencing their responses. Further, the replies were later categorized in considerable detail, and labelled with a view to providing an impression or 'feel' of the various ways the subjects interpreted their sentences. The first category (see Table VIII-1) denotes a stress by the subject on the fact that he

Table VIII-1 Rationale of the Sentence (Open-ended) (143)

Response	Fine		Probation		CS	
	n	%	n	%	n	%
1) 'Keep me out of prison' 'Give me a break'	14	33.3	10	23.8	30	62.5
2) 'Teach me a lesson'	14	33.3	0	0.0	1	2.1
3) 'Because I deserved it'	1	2.4	1	2.4	0	0.0
4) 'I needed help...a job', etc.	0	0.0	21	50.0	4	8.3
5) 'To pay back to society'	0	0.0	0	0.0	2	4.2
6) 'They don't care' 'To get rid of it'	3	7.2	1	2.4	0	0.0
7) 'No idea', 'don't know'	10	23.8	9	21.4	11	22.9
Totals	42	100.0	42	100.0	48	100.0

had received a non-custodial sentence, that he had been 'kept out of prison' or 'given a break'. Categories 3 to 5, it will be noted, represent most of the conventional sentencing aims - deterrence, denunciation (and retribution), rehabilitation, and reparation. The sixth category - intended to describe a cynical response - was included because, as the table shows, it was encountered several times in the Fine group and not at all in the CS group, although the numbers are such that these results may well have occurred by chance. A subject might have replied that the magistrates' purpose was simply, for example, to 'quit for lunch' or he might have charged that they 'didn't give a damn', sticking to such a response despite some prompting.

Turning to the results in Table VIII-1, it will be seen first that roughly equal proportions of the subjects in all groups said they had 'no idea' of the aim or aims of their sentences. The CS group showed no more (or less) uncertainty here than did the other groups. Beyond this, the distributions, at least for the Fine and Probation groups, are roughly as one would expect. A fair proportion of the subjects in all groups stressed the non-custodial aspect of their sentence (category 1), and the Fine and Probation groups, in reasonable numbers, did identify, respectively, the punitive (categories 2 and 3) and rehabilitative (category 4) aims of their sentences.

The distribution for the CS group, however, clearly differs from the others. Here the majority of the subjects perceived the primary intent of the court as that of keeping them out of prison or treating them in a lenient and humane way. All other response

categories for this group showed no clear pattern and most are barely represented.

These results are not surprising. As we saw earlier (Chapter II), CS was officially recommended for use where the offender would otherwise be sent to prison, and a relatively large proportion of the subjects in fact expected such a sentence. Presumably probation officers or the courts (or both) stressed the 'non-custodial aim' of CS much more frequently than they did for the other sentences. We will return to this shortly.

It should be noted, finally, that the 'reparation' category (5) - any response where the subject indicated that he felt he was 'paying back' or 'making up for' his offence - is barely represented.

The second question was highly structured and designed to force the subjects to distinguish between the punitive, reformatory, and reparative sentencing aims. The framing of the question was more difficult than it might appear. It was not sufficient simply to ask the subjects whether they thought they were being punished, being 'rehabilitated', or being required to make reparation. First, there were the routine problems of phrasing the question in terms which the subjects would understand and in terms which would not suggest any specific response to them. The use of the word 'community', for example, in the phrasing of the reparative option might suggest to the CS subjects that this was the expected or appropriate response, and the word 'repayment' might confuse the fined subjects.

The more difficult problem, however, was to try to ensure that the subjects understood each of the choices at the same level of abstraction, in such a way that the categories would be mutually exclusive. The word 'punishment', for example, is conventionally used at more than one level: in a general sense to mean any sentence or sanction imposed by a court, and in a narrow sense (as it is used in this study) as one of several possible sentencing aims. Similarly, the words 'treatment' and 'reformation', and even the word 'reparation', might be interpreted broadly or narrowly by the subject.

Each option was therefore introduced by the words 'teach you to obey the law' in an attempt to place all on an equal footing with regard to its level of abstraction. The question, then, was put as follows:

I would like to ask a more specific question about what the courts may have been intending to do. Do you think that the court - even apart from some of the things you have mentioned and apart from keeping you out of prison - was mainly trying to:

- a) Teach you to obey the law by punishing you for the offence?
- b) Teach you to obey the law by providing supervision or help with your problems?
- c) Teach you to obey the law by making you make up for the offence or make amends for it in some way? (145)

The results are given in Table VIII-2. It will be seen that fines are interpreted as punitive and probation as rehabilitative by overwhelming majorities. This much one would expect. The exceptions are not surprising: some of the fined subjects might well interpret their sentence as rehabilitative or 'helpful' in the sense of 'teaching them a lesson', and some might have regarded the money paid as akin to reparation to the community. Similarly, a few

Table VIII-2 Rationale of the Sentence (Forced) (145)

Sentencing Aims	Fine		Probation		CS	
	n	%	n	%	n	%
Punishment	31	73.8	3	7.1	4	8.3
Rehabilitation	6	14.3	39	92.9	22	45.8
Reparation	5	11.9	0	0.0	22	45.8
Totals	42	100.0	42	100.0	48	100.0 ^a

a. Error due to rounding

probationers might interpret their sentence as simply punitive, rejecting or failing to apprehend its (usual) rehabilitative intent.

The outcome for the CS group requires more attention. Here, the great majority of the subjects divided themselves roughly equally between the rehabilitative and reparative aims. It is encouraging to see that while extremely few subjects mentioned the reparative aim in response to the previous open-ended question, this aim is well represented here. The question arises, however: Why was it not the main response?

The chief answer must be that CS is a sentence which is highly ambiguous in aim. As we saw in the review of the literature in Chapter II, CS is usually regarded as serving several sentencing aims, including the 'aims' of simply keeping offenders out of prison and treating them in a humane and economical way.¹ And it

1. It will be recalled that such 'aims' as humanity and economy

was indeed particularly difficult to make the distinction between the rehabilitative and reparative aims as regards CS. It was concluded only after considerable analysis that these aims differed in their 'basic psychological rationale'. The difference, however, was not easy to see, and many CS subjects might well not perceive it, much less articulate it. Further, it was observed specifically that the probation service, quite understandably, tended to interpret CS in rehabilitative terms, i.e., in terms consistent with the conventional rationale of the service.

In this light, the results here are hardly surprising. Many CS subjects would be bound to respond to the fact that CS was 'helpful' to them if only in the sense that it kept them out of prison, an aspect of their sentence which, as pointed out just earlier, was likely frequently mentioned to them. The proportion of CS subjects who apprehended the reparative principle represented by their sentence must therefore be considered satisfactory.

Attitudes to the Sentence

In Chapter VI it was pointed out that attitudes are composed of several elements: the affective, evaluative, and conative. They also may be described in terms of a number of dimensions; e.g., direction (positive, negative, or neutral), content (the subject matter or 'object' of the attitude), and intensity of feeling.

are regarded in this study as values which 'limit' sentences, and not as sentencing aims.

Further, an attitude may be explained or justified in different ways; in terms, for example, of self-interest or in terms of moral principle - the extent to which the interests of others are involved. The attitudes to be explored in this study are no exception, and we will make use of most of these concepts in describing the results.

In this chapter the object of the attitude is of course the sentence received. We will be concerned, however, not simply with the direction and intensity of the attitudes of the subjects toward their sentences, but also with the 'level' or type of justification they employ in describing or defending their attitudes. We will be interested, in short, not simply in whether the groups differ in attitudes and to what degree, but in how they differ.

The first three subsections immediately below will describe the subjects' response to general (and mostly open-ended) questions about their sentences. The last three subsections discuss the results of several attitude scales pertaining to the sentence and introduce statistical controls, where appropriate, for the effect of the relevant extraneous variables.²

2. Such statistical controls were not applied in the first three subsections for two reasons: First, the data is for the most part anecdotal or based on subjective interpretations of the responses. Secondly, as regards the subjects' 'level of justification', this measure was considered plausibly related to only two of the control variables - understanding of the questionnaire (177) and, particularly, moral development level (179) - but the groups showed no significant difference on either of them (see Tables VII-9 and 10).

General Attitude to the Sentence

The purpose of the first question was to obtain the initial global response of the subjects to their sentences. The subjects were therefore asked this free-response question.

How do you feel about your sentence? What do you think about it in general? (Prompt: Why do you feel that way?) (119)

It is appropriate first to indicate some of the general impressions obtained of the responses of each group during the course of the interview, and to include some of the subjects' remarks. In comparison with the other groups, the fined subjects showed a good deal of resentment and sometimes even cynicism, bitterness or anger in their responses to the sentence. While many indicated that they appreciated the lenience they were shown, this often did not carry them through to a positive attitude, and they might well rationalize the lenience as deserved, reveal a general indifference, or even show a degree of contempt for the court. Consider the following:

F02 People who sentence you just do their job. They treat you like a kid in working out your wages. It's very light, especially since drugs were involved, but then again I had no previous.

F05 It really doesn't do a lot for anyone. It's meaningless. They don't bother about it anyway as long as you tell them something, as long as I make an excuse. There's no deterrent effect. But it's okay...very fair.

F19 It was no good for what I did. It wasn't fair.

F20 It's light...but it gets on your nerves.

F24 It knocked the wind out of me...but I suppose I have to accept it. It's a lot of money and it's hard to find...I could have gone to prison.

F31 The fine is unfair...heavy...but I was relieved not to go to prison. Fines should be set the same for all according to the offence.

F37 I don't feel much...it's pretty lenient...it's pretty trivial... you pay so little.

F38 It's pretty fair. It just shows justice is seen to be done but it does nothing really to anyone. It has no effect on the wealthy and the poor can't pay anyway. It's not even a good punishment...the family suffers...you just can't earn any more.

F39 It's bloody ridiculous - I'm out of work and they fine me. I didn't know where to get the money so I got in trouble again to get the money to pay for it.

F16 It's just a millstone...not even a punishment. You feel even worse...next time I'll really hit him!

There were of course also many examples of more positive responses, but even here the orientation was to the lenience of the sentence and again one often got the impression of indifference or at best grudging acceptance. For example:

F06 It's a bit steep for a first offence...but not much harm done.

F04 Not that much...it's okay...fair enough since I was a first offender.

F10 Okay...better than a (prison) sentence.

F15 I don't know really...if I compare it I'm probably lucky.

F29 I've no objections...it's light compared to what the others got.

The response of subject F33 - an enthusiastic, unqualified positive response addressed to the principle of the fine - was found only once:

F33 Fines are a good thing...they hit the pocket...I'm pleased on the whole.

Even here, this subject was a parolee who evidently expected to be returned to prison.

The remarks of the probationers showed a rather different attitude.

For example:

- P01 It's better than jail. It's someone to turn to when you actually are in trouble...and he may help out with ordinary problems.
- P03 I don't like it...but I suppose it helps you...he helped me get a room.
- P05 I was relieved...but I would still be getting on okay if I wasn't on probation. I only see her once every fortnight. She doesn't interfere...she's fair...I would see her anyway.
- P08 It's okay. It's much better than going down.
- P12 I was very pleased...expected much worse. They were so busy in court. P.O.s haven't enough power...they can't get you a place to live. I would prefer voluntary probation. It's not very relevant...I just say the same things each week. It helps a bit maybe.
- P13 It's okay at the moment - I'm out of work.
- P15 I'm pleased in one way - people want to help you. But on the other hand they treat you like a kid at times. I wanted probation at the time since there was no one to speak to, but he's only two years older than me...it's a bit embarrassing. 'Have you been working this week? Have you been staying out of trouble? Who have you been speaking to?' - I might as well have a tape recorder. What I need is a house and probation isn't helping in this. If you have no family and no one to speak to then maybe it's all right.
- P16 They try to help you but it's not the best. They seem to get you in more trouble...get you back to court...it's a bit hard. They really don't care...can't do anything... just sit in their office.
- P20 It's okay. I get along with the P.O.
- P24 Depends on who you got. My P.O. is okay...others put you off.
- P25 It's not much inconvenience.
- P27 Something has affected me. I don't know whether it's probation. One thing about it: it shook me it was so easy...no orders, no demands about my debts...just a general talk, but I did have the feeling I wouldn't like to let her down. She had an understanding attitude.

- P29 It's a waste of time. We talk about trivialities and it's the same over and over again.
- P30 I went along with it for a few weeks; then I felt it was an invasion of privacy. It's some help, some friendship... it adds a bit to feelings of guilt. They have overwhelming power - you have to fight it or ride with it. I go there... a formality...sometimes you get involved, but mostly it's nothing.
- P31 It was fixed by the lawyer and the judge. It doesn't seem to do a lot for me...we talk about problems, but don't do anything about it. He asks me the same questions every week over and over again. I'm only there four minutes and you can't do anything in that time. But you can borrow a few quid if you have no job and no clothes, I've heard. The bloke's friendly enough and I suppose he tries, but I guess it's because he's too busy. It's useless...a waste of time and public money.
- P32 It beats prison.
- P34 It helped...I'm going steady now. It's better than being inside.
- P35 Probation is easier than a fine.
- P37 It's okay...I can talk to him. It's independent from the family.
- P39 I get along with my P.O. I was caught; I got me punishment; I accepted it and that's it. But I should take a tape recorder up there. I just goes in and says the same thing every time. I could take the tape recorder into court and show what goes on between me and my probation officer. But yet he's a nice bloke and I don't want to say anything against him...but that's my opinion of the bloody probation service...I think it's sheer bloody stupid.
- P42 It's okay. We get on well. The main thing is just to keep the P.O. happy. In prison I'd lose everything.

In the Probation group one thus did not see the resentment or sense of injustice that so often appeared among the fined subjects. The probationers, however, frequently seemed either indifferent or vaguely puzzled about the function or purpose of probation. They knew they were to be 'helped', but often wanted practical assistance,

and frequently resented what they considered to be an unwarranted invasion of their privacy. Sometimes they would indicate that they were 'doing better', but were uncertain whether this was attributed to the efforts of the probation officer. Occasionally there were extremely cynical responses, perhaps the best example being the subject who said 'Oh, it's okay...it's like insurance...you never know when the P.O.'ll come in handy if you get in trouble again'.

The following, finally, is a list of remarks made by community service subjects:

- CS05 It's a relief not to be sent down. There's nothing wrong with it. You work long hours. They're trying to bring me up to better standards.
- CS07 It's a bit stiff...but it's a good thing to bring out. It's not a punishment.
- CS09 A good thing...better than prison. It keeps me at home. You're doing something.
- CS10 There's only one thing wrong - it takes your time. I'm very busy on weekends. It's run in too slopshod a way... it's a bit of a doddle. You can take your time...someone picks you up, pays for your dinners, and you can go and just sit there. I put up with it, but I'm bored. It would be better if I had a job I was happy with. I would be more strict than they are.
- CS12 It's good. You're paying for it by spending your free time and learning too. You can think about what you've done.
- CS13 It helps out society. It's just that it's on weekends.
- CS16 It's okay but I thought it would be much better. I'm not interested really. Perhaps it's okay for others. But it's a good thing - you could have gone back to prison. You're learning something in painting and decorating and meeting the older people. I felt sorry for them...my mother may be there one day.

- CS17 It's not a punishment, but I can see the court's reasoning - give something back, and it gives you a break. But I can't conceive of it as punishment - it's sure no work to play football. But it's clear now - it's not a let-off as I thought...you have to keep up a standard. You get so involved that you want to keep it up.
- CS20 I was pleased not to be put away. I don't mind it...you come when you feel like it. I want to get a full-time job at one of these when I'm finished.
- CS22 I don't see it as punishment. It has a good effect...it broadens your outlook.
- CS23 It's light since I expected to be put down.
- CS24 Two rights make up for one wrong. I got two rights now.
- CS25 It's obvious that it's better than prison. I got something I like doing. You feel you have to do something for the community.
- CS26 You've got something to show for it.
- CS28 It's cushy. You get a lift...and it's better than borstal.
- CS34 A bit long but it's fair. Doing time would be worse. It's a good thing, but I would like to work on Sundays.
- CS37 It's excellent. Prison would do no good and the wife and kids would suffer. It's interesting - you need a task to go at something on your weekends - and you're doing good for someone else.
- CS38 It's better than prison and helpful to yourself. You meet people and you teach yourself. I've learned about painting and decorating.
- CS39 It's okay but aggravating at times. I would prefer Saturdays.
- CS47 It helps you in a way. I miss my spare time, but you're doing something for someone else. You're not really pushed on CS...they try to help you rather than work you.

Apart from the generally positive responses of the CS subjects, the chief difference between them and the probationers seemed to be the more positive tone or vitality of their acceptance of their

sentences. Where they were negative, their criticisms mostly referred to the administration of the program or its practical inconvenience for them. But only in a few cases did such criticisms tend to determine their basic acceptance or rejection of the sentence. Like the Probation group (and unlike the Fine group), they also frequently made reference to what they took to be the general principles of their sentence, but for this group the remarks seemed invariably in a positive direction.

To provide a summary and rough analysis of these general impressions, the responses of all subjects were categorized on two dimensions: the 'direction' of the response (positive or negative) and the subject's reasons for his response. The procedure produced the four response categories shown in Table VIII-3. Categories 1 and 2 are positive and Categories 3 and 4 are negative. Categories 1 and 4, however describe those subjects who appeared to respond in terms of the general principle or rationale of their sentence, differing of course in direction. There was a degree of detachment in such positive remarks as 'It's a good idea', 'It does somebody some good', 'It will teach me a lesson', 'They've got to enforce the law' and 'It gives you someone to talk to'. Corresponding negative remarks were, for example, 'It favours the rich', or 'It's a silly way of going about it'. Categories 3 and 4, on the other hand, reflect, in the positive and negative directions, responses which emphasized the lenience or 'fairness' of the sentence, its non-custodial nature, or the practical benefits or difficulties it presented to the subject.

Table VIII-3 General Attitude to the Sentence (119)

Response	Fine		Probation		CS	
	n	%	n	%	n	%
1) Good idea, sensible, helpful, good deterrent	4	9.5	9	21.4	19	39.6
2) Fair, lenient, non-custodial, easy, convenient	16	38.1	22	52.4	26	54.1
3) Unfair, severe, difficult	18	42.9	3	7.1	3	6.3
4) Not a good idea, wrong, does no good	4	9.5	8	19.1	0	0.0
Totals	42	100.0	42	100.0	48	100.0

The table shows that the CS subjects were rated as overwhelmingly positive (categories 1 and 2), the probationers moderately positive, and the fined subjects marginally negative.³ To this extent the data give some support to the hypothesis that CS would produce the most positive attitudes. The data must, however, be regarded as merely suggestive since they are based of course on the subjective interpretations of an open-ended general question, and lack control for the effects of extraneous variables.

The Table also reflects the earlier impressions that the CS subjects tended, to a greater degree than the others, to address themselves to the principle they took their sentence to represent. If we examine Categories 1 and 4, some interesting comparisons

3. It was not considered necessary to test the differences in this table for statistical significance, and not particularly appropriate considering the rough measurement used.

result. The CS and Probation groups show roughly equal numbers of subjects in these categories, but approximately half of the probationers are negative (Category 4) about the principle they took their sentence to express, while none of the CS subjects criticized their sentence in principle. As regards the Fine group, the table demonstrates the earlier conclusion on this point that the great majority, whether negative or positive, were preoccupied with the severity or practical aspects (Categories 3 and 4) of their sentences; only 19 per cent of the subjects appear in Categories 1 and 4, and, as shown, half of them are negative.

We have, then, an impression of the general attitudes of the groups to their sentences. As indicated, the CS subjects appear to have been the most positive toward their sentence and a good proportion of them were not only positive but stressed the principle they took CS to express. The data as to the general direction of attitudes bears verification taking into account the effects of extraneous variables, particularly differences between the sentences in perceived severity, which we found to be a strong determinant of a subject's total response. The differences in the subjects' 'level of reasoning', however, is arguably less susceptible to the influence of external variables⁴ and provides firmer support for the hypothesis that CS, in keeping with its postulated reparative rationale, would foster in the subjects a greater sense of the moral

4. See footnote 2.

principles involved in wrongdoing. This finding goes to the root of the reparative rationale; the offender is not only to respond positively to the sanction but to appreciate the principles involved. This essential point is pursued further below.

Reasons for Preferring or Rejecting a Sentence

As an additional method of testing the hypothesis that CS would encourage the offender not simply to 'watch out for himself' when faced with a sentence but to consider his moral position or his obligations to others, each subject was asked a) which of the three sentences they would choose if given a choice and b) why they would choose it. The questions were put as follows:

How would you rate the following types of sentence from best to worst for your kind of case - the fine, community service, and probation? Why? (151)

We were interested primarily of course in the subjects' responses to the why question. The specific hypothesis was that CS, in comparison with the other sentences, would be preferred more on grounds of principle than because of its practical convenience or its relative severity. And when it was rejected the reverse would be true - the rejection would be based more on the grounds of its practical disadvantages rather than on disagreement in principle.

The results of the first question are given in Table VIII-4. It will be seen that although the three groups differed significantly in their choices, CS was in general easily the most popular. We shall turn immediately, however, to the point here - the question of why a sentence is preferred or rejected.

Table VIII-4 Preferred Type of Sentence (151)

Sentence type preferred	Fine		Probation		CS	
	n	%	n	%	n	%
Fine	14	33.3	11	26.2	9	18.8
Probation	6	14.3	17	40.5	11	22.9
Community Service	22	52.4	14	33.3	28	58.3
Totals	42	100.0	42	100.0	42	100.0

Significance Test: $X^2 = 10.8, 4df, p. < .05$

In Tables VIII-5 and VIII-6 it will be seen that the reasons given either for accepting or rejecting CS were in accord with the hypothesis. In comparison with the other sentences CS tended to be more frequently on the basis of its practical disadvantages. The fine and probation did not differ significantly from each other in the reasons either was preferred or rejected, although the

Table VIII-5 Reasons for Preferring a Sentence (151)

Reason	Sentence Type Preferred					
	Fine		Probation		CS	
	n	%	n	%	n	%
Good in principle	6	35.3	10	47.6	31	83.8
Practical benefits	11	64.7	11	52.4	6	16.2
Totals	17	100.0	21	100.0	37	100.0

Significance Test: ^aMarascuilo procedure: $U' = 19.14, 2df, p. < .001$; Fine vs Prob. n.s., Fine vs CS, $p. < .001$; Prob. vs CS, $p. < .05$

a. After Marascuilo (1966)

Table VIII-6 Reason for Rejecting a Sentence (151)

Reason	Sentence Type Rejected					
	Fine		Probation		CS	
	n	%	n	%	n	%
Bad in principle	11	61.1	21	75.0	3	21.4
Practical disadvantages	7	38.9	7	25.0	11	78.6
Totals	18	100.0	28	100.0	14	100.0

Significance Test: ^aMarascuilo procedure: $U' = 15.31, 2df, p. < .001$; Fine vs Prob., n.s.; Fine vs CS, $p. < .05$; Prob. vs CS, $p. < .001$.

results appear to be in the expected direction; i.e., there is at least a suggestion that the fine was preferred for its practical benefits but rejected in principle, while probation tended to be preferred on either grounds fairly equally, but was rejected mostly on the basis of its rationale.

Feelings After Sentence Scale

In this and the following three sections the results of several attitude scales are given. The scales set out to measure different aspects of the subject's attitudes - the emotional, evaluative, and (to some degree) the conative; i.e., how they feel about their sentence, what they think about it, and finally their expectation as to how it might affect their future attitudes or behaviour. It was pointed out in Chapter IV that there is no clear separation between the emotional and the cognitive or evaluative components of attitudes. These elements are, however, at least conceptually distinguishable and it seemed useful to try to measure them separately. But there were also important theoretical reasons to

justify the separate measurement here of the emotional and the cognitive aspects of attitudes about sentences. We have argued that the psychological basis of a reparative sentence is an appeal to an offender's understanding of the moral implications of his offence. It did not seek, as probation did at least in part, to 'support', guide or control him; nor did it intend, as the fine (in part) did to work upon his fear of punishment. These distinctions provided sufficient reason to think that CS might, particularly in comparison with the fine, have a stronger effect on how the subject evaluated his sentence than it would on how he felt about it.⁵

We turn first to the measure of the subject's feelings about his sentence. The frequency distributions in percentage form for each of the adjective-pair items making up the Feelings after Sentence scale are given in Table VIII-7. It will be noted that the groups differed significantly according to a Chi Square test on almost all items.⁶ Further, the ordering of the scores is

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5. It was difficult to judge whether the attempt to separate the emotional from the cognitive components of attitudes would be at all useful so far as probation was concerned, since this sentence addresses itself both to the offender's understanding of his situation and to his emotional 'needs'; it is not necessary, however, to speculate about this here.
 6. As shown each item distribution is statistically tested by means of the Chi Square with the probabilities reported to the .05 level. Considering the number of items, some of the differences could clearly have occurred by chance, and choice of the .01 level would have reduced such a risk. The Chi Square test of the item score distributions, however - like the tables themselves - is intended, again (continued)

Table VIII-7 Feelings After Sentence Item Score Distributions

Scale Item	Group ^a	Score					p. <sup>b
		(Negative) 1	2	3	4	(Positive) 5	
Bitter/grateful (128)	Fine	23.8	4.8	21.4	7.1	42.9	.001
	Probation	7.1	4.8	9.5	16.7	61.9	
	CS	2.1	0.0	6.3	4.2	87.5	
Degraded or embarrassed/ not degraded or em- barrassed (129)	Fine	9.5	2.4	2.4	4.8	81.0	n.s.
	Probation	19.0	4.8	4.8	0.0	71.4	
	CS	16.7	4.2	4.2	2.1	72.9	
Angry/not angry (130)	Fine	21.4	4.8	9.5	0.0	64.3	.001
	Probation	2.4	2.4	4.8	4.8	85.7	
	CS	2.1	0.0	2.1	2.1	93.8	
Sense of injustice/ justice (131)	Fine	23.8	2.4	11.9	19.0	42.9	.01
	Probation	7.1	2.4	9.5	14.3	66.7	
	CS	2.1	4.2	8.3	14.6	70.8	
Not hopeful about future/hopeful about future (132)	Fine	33.3	0.0	14.3	16.7	35.7	.001
	Probation	16.7	0.0	16.7	7.1	59.5	
	CS	4.2	2.1	16.7	4.2	72.9	

a. n= 42, 42 and 48 for Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

almost always the same - the Fine group yielded the most negative scores, the Probation group intermediate, and the CS group the most positive (highest) scores. The exception is the degraded/non degraded item, where there was no significant difference and where in fact the usual order changes, with the Fine group scoring the highest (i.e., not feeling degraded) score.

The mean scale scores and standard deviations, along with statistical controls for the effect of the relevant extraneous variables, are given in Table VIII-8.⁷ The order of scoring is in accord with the previous data, with the Fine group scoring the most negatively and the CS group the most positively. The table also suggests that the variability of the scores increases as the means drop, i.e., that the CS subjects are not only the most positive on this measure but the most consistently so.

The differences between the groups, however, do not appear great in absolute terms, and although the analysis of variance

simply to provide a general picture of the raw data and to assist in the interpretation of the mean scale scores presented in the tables which follow. The mean scale scores, which are analysed by more powerful statistical procedures controlling for the influence of the relevant extraneous variable, of course carry the burden of the results of the study. See Chapter VI for a note on the selection of statistical tests.

7. See Chapter VI pp. 188-189 for a note on the statistical procedures followed to control for the effects of extraneous variables. See also the discussion of the sentence severity variable in Chapter VI for the rationale justifying the application of the analysis of covariance (where required) in two successive steps.

Table VIII-8 Feelings After Sentence Scale

Measure	Fine	Probation	C.S.	All Groups
Mean	18.4	21.1	22.6	20.8
Standard Deviation	5.9	4.9	3.6	5.1

Significance Tests

Analysis of Variance: $F(2,129) = 8.46, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2,126) = 4.01, p. < .05$. (Covariates: type of sentence expected (121), $F = 8.47, p. < .01$; number previous convictions (269), $F = 0.75, n.s.$; criminality index (280), $F = 2.49, n.s.$). Adjusted group means: Fine, 19.1; Prob., 21.1; CS, 22.0. Post-test comparisons significant at $p. < .05$ using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2,125) = 2.07, n.s.$ (Covariates: type of sentence expected (121), $F = 0.00, n.s.$; perceived severity rating (123), $F = 15.70, p. < .001$; number of previous convictions (269), $F = 0.32, n.s.$; criminality index (280), $F = 1.35, n.s.$). Adjusted group means: Fine, 19.6; Prob., 21.1; CS, 21.6.

shows a highly significant difference between the means, specific comparisons of the means show that the negative feelings of the fine group dominate the results. And when controls for the influence at several relevant extraneous variables are introduced - particularly sentence severity - it will be seen that the differences are sharply reduced.

The first analysis of covariance - controlling mostly for the effect of the type of sentence expected variable - does, however, still leave a significant overall difference, and the Tukey HSD test shows specifically that the difference between the CS and Fine group means remains significant. It is only when the second analysis of covariance adjusts the means for the effect of

perceived sentence severity that the statistically significant difference disappears. And if it is true that the perceived sentence severity variable to some degree 'over-controls' for the severity factor, then it is fair to say that there remains some evidence that feelings after sentence are affected by the independent variable, i.e. by the type of sentence. Thus the result, perhaps very weakly, would suggest that CS results in more positive feelings toward the sentence than the fine and marginally more positive feelings than probation, quite apart from the perceived severity of these sentence.

Evaluation of Sentence Scale

We turn here to the cognitive or rational responses of the subjects to their sentences, to what they think about their sentences. The frequency distributions in the form of percentages for each scale item for each of the groups are first given in Table VIII-9. It will be seen that the groups order themselves in terms of negative and positive attitudes in the same way as they did in the previous scale; i.e., the Fine group shows the most negative attitude, Probation intermediate, and the CS group the most positive response to the sentence. The Chi Square tests suggest that the groups do differ significantly in all of the distributions, although inspection indicates some variation in the source of the difference. For some items it is the Fine group which differs most radically from the others, and for other items it is the CS group.

Table VIII-9 Evaluation of Sentence Item Score Distributions

Scale Item	Group ^a		Score					p. < b
			(Negative) 1	2	3	4	(Positive) 5	
Unfair/fair (133)	Fine	%	16.7	7.1	7.1	4.8	64.3	.05
	Probation		11.9	7.1	0.0	0.0	81.0	
	CS		6.3	0.0	4.2	4.2	85.4	
Not sensible/sensible (134)	Fine		23.8	7.1	9.5	11.9	47.6	.001
	Probation		26.2	0.0	9.5	2.4	61.9	
	CS		0.0	0.0	6.3	4.2	89.6	
Harmful/helpful (135)	Fine		45.3	9.5	19.0	2.4	23.8	.001
	Probation		7.1	0.0	16.7	26.2	50.0	
	CS		2.1	6.3	20.8	4.2	66.7	
Unsuitable/suitable (136)	Fine		23.8	2.4	7.2	7.1	59.5	.01
	Probation		21.4	2.4	14.3	4.8	57.1	
	CS		4.2	0.0	8.3	4.2	83.3	
Unclear/clear (137)	Fine		23.8	4.8	2.4	0.0	69.0	.001
	Probation		23.8	7.1	7.1	0.0	61.9	
	CS		4.2	0.0	0.0	0.0	95.8	

a. n = 42, 42 and 48 for Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table VIII-10 gives the mean scale scores and standard

Table VIII-10 Evaluation of Sentence Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	17.6	19.6	23.2	20.3
Standard Deviation	5.8	5.7	3.0	5.4

Significance Tests

Analysis of Variance: $F(2,129) = 15.05, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2,127) = 11.01, p. < .001$. (Covariates: type of sentence expected (121), $F = 2.11, n.s.$; criminality index (280), $F = 0.80, n.s.$) Adjusted group means: Fine, 17.9; Prob., 19.6; CS, 22.9. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2,126) = 7.77, p. < .001$. (Covariates: type of sentence expected (121), $F = 2.81, n.s.$; perceived sentence severity (123), $F = 22.17, p. < .001$; criminal index (280), $F = 0.21, n.s.$) Adjusted group means: Fine, 18.5; Prob., 19.6; CS, 22.4. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

deviations for the groups. It will be noted: (a) that the analysis of variance shows significant differences among the group means; (b) that the CS group score distribution shows the least variation; and, (c) that the mean scores are ordered across the groups in the same way as for the feelings after sentence scale. In contrast to the previous scale, however, it would appear here that it is the CS group which accounts for much of the variation; the CS group differs significantly from each of the other groups while there appears no significant difference between the Fine

and Probation groups. With regard to the influence of the relevant control variables, it will be seen that, as with the previous scale, we may quickly discount any appreciable influence of a subject's criminality rating. The sentence severity variable again, however, reduces the F-ratio considerably, but here the adjustment of the scale scores to take account of this factor still leaves a highly significant difference between the groups.

Returning to the item distributions in Table VIII-9, what is perhaps most noteworthy is that the CS subjects do not consider their sentence to be especially more fair or helpful than do the other groups regard theirs, particularly when CS is compared to probation. The CS subjects, however, are clearly distinguished in rating their sentence as sensible (for their own circumstances or situation), suitable (for their type of offence in a general sense), and clear in purpose (notwithstanding the fact that, as we saw earlier, they differed somewhat in what they took the purpose of CS to be). These results would seem consistent with the fact that, as we saw earlier (Table VIII-3), the CS group tended to emphasize the principle expressed by their sentence, while the other groups laid greater stress on the lenience or practical convenience of their sentences.

Perception of the Effects of the Sentence

In this section the results of a series of ad hoc rating scales which explored the subjects' perceptions of the future effects of their sentences on their attitudes or behaviour are

given. As pointed out in earlier chapters, the three sentences compared here, as representatives (predominantly) of three different sentencing aims, are intended to have different effects on the attitudes of offenders. And all, of course, are intended ultimately (in part) to influence the behaviour of offenders, specifically to cause a reduction in law-breaking. As part of the enquiry into the subjects' attitudes to their sentences, it therefore seemed useful to determine whether they themselves expected their sentences to have the effects the sentencers, according to our interpretation of the sentencing aims represented, would have intended.

A series of six five-interval rating scales was therefore designed on theoretical grounds to elicit the subjects' perceptions of a number of possible attitudinal effects of the sentences. In keeping with the purpose of this study, the attitudes selected for measurement are mainly social and moral attitudes - specifically the sense of self-esteem, understanding of the rights of others, the sense of atonement or moral redemption, and the sense of alienation. Two additional scales, however, were added - one enquiring about the effect of the sentence on the subjects' future law-breaking behaviour (the 'reductive effect'), and the other about the effect of the sentence on the subjects' insight into their own motivations and problems ('understanding of self'). These additional scales were intended, at least in part, to allow the Fine and Probation, as expressions respectively of the punitive and rehabilitative aims, to demonstrate their effects.

The results of the six scales described above will be given in a moment. Before administering the (structured) scale items, however, the subjects were asked the following open-ended questions: Has the sentence had any effect upon you in any way? If so, how? The questions were designed to give a quick over-view of the subjects' primary attitudes on this topic and to orient them to the series of specific questions which were to follow. Each subject was later categorized according to his first clear response, with a minimum of prompting.

The results are given in Table VIII-11. The categories

Table VIII-11 Perceived General Effect of Sentence (142)

Effect	Fine		Probation		C.S.	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
"Reductive effect"	5	11.9	2	4.8	5	10.4
Self-understanding	2	4.8	9	21.4	9	18.8
Understanding others	0	0.0	0	0.0	9	18.8
Practical-behavioural	3	7.1	9	21.4	6	12.5
Negative effects	5	11.9	2	4.8	1	2.1
None	25	59.5	20	47.6	14	29.2
No data recorded	2	4.8	0	0.0	4	8.2
Totals	42	100.0	42	100.0	48	100.0

are largely self-explanatory. The first four categories are positive in tone, and the last three negative or neutral. The 'reductive effect' includes any response where the subject referred specifically to future lawbreaking; saying, for example, that the sentence would 'teach (him) a lesson' or 'help (him) stay out of trouble'.

The practical-behavioural category was applied to such responses as 'It helped me to get a job' or 'I learned something about painting and decorating' or 'It helped me to manage things'.

It will be noted first that the distributions would seem consistent with the previous data in that the Fine group tended to be negative, Probation intermediate, and the CS group positive. The responses of the CS groups also appear to be distributed more widely than those of the other groups, consistent with the ambiguity of the aims of CS. But more to the point here is the fact that almost one in five CS subjects stressed the fact that their sentence would contribute to the understanding of the situation or problems of other people, a response which generally did not appear in the other groups. We might note also that the self-understanding category appeared, as one might expect, in just more than 20 per cent of the Probation subjects, but even here the CS group produced a roughly similar percentage of responses in this category. In general, the results appear consistent with expectations. We shall now proceed to the rating scales.

The Reductive Effect. The subjects were here asked the following question:

Do you think your sentence will help you to stay out of trouble with the law in the future?

The question was followed by five response categories as follows: 'not at all', 'to a minor degree', 'to some degree', 'a good deal', and 'a great deal'.⁸ As indicated earlier this question was included on an exploratory basis to determine whether the subjects

would differ in their expectations about the effects of their sentences on their law-breaking behaviour, and particularly to allow the fine a chance to demonstrate its possible deterrent effect. No specific hypotheses were postulated. The results are given in Table VIII-12. Although the analysis of variance shows that the difference between the means approaches significance, when adjustment is made for the effect of severity (type of sentence expected) the difference is clearly far short of statistical significance.

It is encouraging to see that the CS subjects are no less optimistic than the other groups about their chances of staying

Table VIII-12 Reductive Effect of Sentence (157)

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	2.6	3.1	3.3	3.0
Standard Deviation	1.5	1.6	1.6	1.6

Significance Tests

Analysis of Variance: $F(2,129) = 2.66$, n.s. ($p. < .07$)

Analysis of Covariance: $F(2,128) = 1.37$, n.s. (Covariates: type of sentence expected (121), $F = 2.63$, n.s.) Adjusted group means: Fine, 2.7; Prob., 3.1; CS, 3.2.

8. These response categories were used for all of the rating scales described here except the last one concerning the sense of alienation (described later). The order in which the categories were presented was randomly determined (see Appendix 5, questions 157-161 inclusive) to control for the effect of a possible directional response set.

out of the criminal court in the future; certainly they are no less positive than the Fine group where the message of the sentence (in its deterrent aspect) is directly and explicitly directed toward discouraging future law-breaking. The results are also consistent with impressions gained during the interview: the CS subjects were no more ready than the others to claim 'miracles'. Often, despite strongly positive attitudes, despite the risks, and despite the possible 'Hawthorne effect' (see Chapter VI), the CS subjects like the others would check themselves and 'give no guarantees' - which, if nothing else, says something for their candour.

Effect on Self-Esteem. The subjects were asked:

Do you think your sentence will help you to feel any better about yourself? (Prompt:... that it will help you to feel more confident about managing things?)

Table VIII-13 shows that the groups differed significantly on this measure, and the difference holds when the relevant control variables are taken into account. The specific comparisons of the differences between the group means shows, however, that the Probation and CS groups do not differ significantly, and that it is the markedly negative response of the Fine group which accounts for most of the variation. The hypothesis that CS would produce the highest level of self-esteem therefore receives only partial support. Nevertheless, the CS group scores were at least equal to those of Probation, a sentence which directly, if only in part, is designed to enhance the offender's sense of his own

Table VIII-13 Effect of Sentence on Self-Esteem (158)

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	1.5	2.8	3.1	2.5
Standard Deviation	1.1	1.6	1.5	1.6

Significance Tests

Analysis of Variance: $F(2,129) = 14.56, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2,127) = 10.44, p. < .001$. (Covariates: sentence interview interval (106), $F = .072$, n.s.; type of sentence expected (121), $F = 0.84$, n.s.) Adjusted group means: Fine, 1.6; 2.8; CS, 3.1. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2,126) = 8.24, p. < .001$. (Covariates: sentence interview interval (106), $F = 0.62$, n.s.; type of sentence expected (123), $F = 0.95$, n.s.;) perceived severity rating (123), $F = 6.91, p. < .01$) Adjusted group means: Fine, 1.7; Prob., 2.8; CS, 3.0. Post-test comparisons significant at $p = .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

identity, sense of self-esteem, or sense of competence in coping with his environment. CS apparently does this just as well, in the opinion of the subjects here.

Understanding Others' Rights. It will be recalled that in response to the open-ended question (Table VIII-11) the CS group stresses this effect more than did the other groups. The effect was explored further here by means of the question:

Do you think your sentence will help you to understand other people any better? (Prompt:... to understand their rights or their problems?)

The results, shown in Table VIII-14, clearly support the hypothesis. The difference between the means is highly significant, and here

Table VIII-14 Effect of Sentence on Understanding of Others (159)

Measure	Fine	Probation	C.S.	All Groups
Mean	1.4	2.2	3.3	2.4
Standard Deviation	1.1	1.4	1.6	1.6

Significance Tests

Analysis of Variance: $F(2,129) = 19.50, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2,128) = 15.43, p. < .001$. (Covariate: type of sentence expected (121), $F = 1.36, n.s.$) Adjusted group means: Fine, 1.5; Prob., 2.2; CS, 3.3. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2, 127) = 13.42, p. < .001$. (Covariate: type of sentence expected (121), $F = 0.03, n.s.$; perceived sentence severity (123), $F = 1.24, n.s.$) Adjusted group means: Fine, 1.6; Prob., 2.2; CS, 3.2. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

it will be seen that it is the relatively high mean of the CS group which accounts for much of the variability. The means are only slightly affected by the sentence severity factor.

Understanding of Self. As indicated earlier, this scale was included particularly to allow probation to demonstrate its rehabilitative effects in comparison with the other groups. No predictions were made. The question was as follows:

Do you think your sentence will help you to understand yourself or your problems any better? (Prompt: ...to understand why you got into trouble and what you might be able to do about it?)

The results are given in Table VIII-15. It will be seen that the outcome is very similar to that for the effect on

Table VIII-15 Effect of Sentence on Understanding of Self (160)

Measure	Fine	Probation	C.S.	All Groups
Mean	1.6	3.1	3.0	2.6
Standard Deviation	1.2	1.6	1.6	1.6

Significance Tests

Analysis of Variance: $F(2,129) = 14.16, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2,128) = 12.43, p. < .001$. (Covariate: type of sentence expected (121), $F = 0.04, n.s.$) Adjusted group means: Fine, 1.6; Prob., 3.1; CS, 3.0. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure. Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2,127) = 10.64, p. < .001$. (Covariate: type of sentence expected (121), $F = 1.27, n.s.$; perceived sentence severity (123), $F = 3.98, p. < .05$) Adjusted group means: Fine, 1.7; Prob., 3.1; CS, 2.9. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

self-esteem scale above (Table VIII-13); i.e. there is virtually no difference between the means for the Probation and CS groups, but the means of both of these groups differ significantly from the Fine group mean. The result for the Fine group is of course not at all surprising - punishments are hardly intended to assist offenders with their problems or their understanding. More important here is the finding, again, that the subjects consider CS just as 'rehabilitative' as probation.

Redemptive Effect. The question here was put to the subjects as follows:

Do you think your sentence will help you to start with a clean slate so far as society is concerned? (Prompt: ...to feel you've 'paid your debt' to society?)

Its rationale rested squarely on the notion of moral atonement implicit in CS to the extent that it represents the reparative aim, and also implicit in the fine, and even probation, to the (perhaps meagre) extent that they represent the denunciatory aim. The hypothesis was that, assuming the reparative aspect of CS would be perceived by the CS subjects (see Table VIII-1), these subjects would also perceive the 'moral message' implied and show a stronger sense of moral redemption or sense of reconciliation with the community.

The results, given in Table VIII-16, show that the group

Table VIII-16 Redemptive Effect of Sentence (161)

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	1.8	2.1	2.7	2.2
Standard Deviation	1.4	1.5	1.4	1.5

Significance Tests

Analysis of Variance: $F(2,129) = 3.99, p. < .05$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2,128) = 2.11, n.s.$ (Covariate: type of sentence expected (121), $F = 5.09, p. < .05$. Adjusted group means: Fine, 2.0; Prob., 2.1; CS, 2.6.)

means do not differ significantly when the sentence severity variable is taken into account (here using only the weaker measure of sentence severity; i.e., type of sentence expected). The means are, however, ordered as expected - the Fine and Probation groups differ very little and the CS group produced clearly the highest mean.

The result is somewhat disappointing since it gives only weak if any support to the hypothesis. Many offenders, however, regardless of sentence, tended to answer the question in a cynical way. Many asserted that an offence 'is always held against you', that 'it's difficult to find a job if you have a record', or that 'the police never forget'. In other words, the subjects in general had little faith that anything they did, any performance they achieved or effort they made to serve their sentence co-operatively and successfully, would be appreciated, at least on a practical level. And they tended to think of course in practical terms rather than to articulate moral principles verbally in answering the question. In view of these prevailing attitudes, perhaps one should be content with the results obtained. One can argue that a single reparative sentence can hardly cope with the force of such prevalent attitudes. We shall return to this theme later.

The Alienating/Integrating Effect. The last scale was somewhat similar to the one just previous in that it also attempts to measure the effect of the sentence in re-establishing or re-integrating an offender in his community. Here, however, the stress is less on the general sense of moral atonement and more on specific social labelling or social role effects. The question was phrased as follows:

Do you think your sentence will tend to make you feel more like a lawbreaker and apart from other citizens, or rather less like a lawbreaker and more like other citizens, or have no effect either way?

The subject was presented with five response categories, the extreme categories being described as 'definitely more like a citizen' and as 'definitely more like a law-breaker'.

The results are given in Table VIII-17. As shown the Fine and Probation group means do not differ appreciably, while the CS mean is significantly higher than either of them. The result is very little affected by either of the relevant control variables taken into account.

Table VIII-17 Alienating/Integrating Effect of Sentence (162)

Measure	Fine	Probation	C.S.	All Groups
Mean	2.5	2.8	3.7	3.0
Standard Deviation	1.1	1.1	1.1	1.2

Significance Tests

Analysis of Variance: $F(2,129) = 16.72, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2,127) = 10.22, p. < .001$. (Covariates: sentence interview interval (106), $F = 3.39, n.s.$; type of sentence expected (121), $F = 4.02, p. < .05$.) Adjusted group means: Fine, 2.6; Prob., 2.8; CS, 3.6. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2,126) = 8.64, p. < .001$. (Covariates: sentence interview interval (106), $F = 3.25, n.s.$; type of sentence expected (121), $F = 0.24, n.s.$; perceived sentence severity (123) $F = 2.66, n.s.$) Adjusted group means: Fine, 2.7; Prob., 2.8; CS, 3.6. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS, Prob. vs CS.

The outcome here gives strong support to the hypothesis that CS would foster a greater sense of social integration in offenders. One must, however, be cautious about this result. It is possible

that the use of the word citizen in phrasing the question suggested the positive response to the CS subjects because of the greater involvement of citizens in the administration of the CS program. It was difficult to avoid using the word without phrasing the question in a more abstract way, which in turn might have resulted in an ambiguous question.

The results for the six scales measuring the subjects' perceptions of the effects of their sentences are summarized in Table VIII-18. The group means adjusted for the effects of the relevant control variables are used as the measure of outcome.

Table VIII-18 Summary of Perceptions of Sentence Effects

Effect	Fine	Probation	C.S.	Significantly different group
Reductive (157)	2.7	3.1	3.2	none
Self-Esteem (158)	1.7	2.8	3.0	Fine
Understanding others (159)	1.6	2.2	3.2	C.S.
Understanding self (160)	1.7	3.1	2.9	Fine
Redemptive (161)	2.0	2.1	2.6	none (C.S.?)
Alienating (162)	2.7	2.8	3.6	C.S.

Taken as a whole these results must be regarded as giving reasonably strong support to the hypotheses; at least they are consistent with the interpretations of the aims of the sentences we have adopted. Thus the subjects show no significant difference in their expectations about recidivism, nor was this predicted.

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Further, CS showed no difference from Probation in its rehabilitative effects, nor was it predicted to do so. Of the four scales where CS was predicted to produce positive effects, the means were always in the expected order, and the CS mean was significantly higher for two of the scales.

Summary

It was shown first that reasonable proportions of the subjects in all groups interpreted the aims of their sentences in accord with our assumptions. In response to an open-ended question the CS subjects stressed the lenience of their sentence and its non-custodial nature, but when forced to choose between the punitive, rehabilitative and reparative aims the CS subjects split their choice between the rehabilitative and reparative aims. It was argued that in view of the prevailing ambiguity about the aims of CS and official statements about its aims, the responses of the CS group to the two questions were sufficient to support the contention that the predominant aim of CS would be perceived differently from those of the other sentences and, to an appreciable degree, as reparative.

Turning to the effects of the sentences on attitudes to the sentence, the CS group, in response to an open-ended question, seemed easily to be the most positive of the three groups. Further, the CS subjects often showed not simply a grudging acceptance of their sentence but a certain spontaneity or even enthusiasm in their remarks. But while these results were encouraging, and were consistent with the literature to date about the reception of CS

by offenders, they involved no controls for the probable effects of extraneous variables, and the conclusions were based of course on the subjective interpretations of this one investigator. When the more structured attitude scales were administered and extraneous factors were taken into account much more modest differences between the groups resulted. The data were presented so that the effects of the control variables could be easily observed. It was clear that a considerable amount of the variation in the groups' attitudes was due not to the differences in the type of sentence received but to other factors. As expected, the subjects' perceptions of the severity of their sentences, in particular, had a marked effect on virtually all of the measures of attitude to the sentences. All of the other relevant control variables had negligible effects.

Despite the application of the statistical control procedures, however, the results were almost always in the expected direction, with the CS group usually producing the highest, the Fine group the lowest, and the Probation group intermediate scores. Of the six scales where it was predicted that CS would produce positive attitudes the CS group mean scores differed significantly from those of the Fine group on four scales and from those of the Probation group on three. With regard merely to the direction of attitude, then, these results provided reasonable support for the hypotheses.

Of greater theoretical interest, however, was the finding that the CS subjects tended, in accord with the postulated reparative aim of CS and the social-psychological theory supporting that aim, to accept their sentence for reasons different from those of the

the other groups, and to differ in the kinds of effects they thought their sentence would have on their future attitudes or behaviour. Thus the subjects tended to discuss their sentence in terms of the principle they took it to represent rather than in terms of its self-serving advantages. If given a choice of the three sentences considered here, the subjects selecting CS would do so more because it was 'a good idea' than because it was 'a soft option'. The 'message' seemed to be getting through. And, in keeping with this emphasis on rational principle, the CS group distinguished itself from the other groups more decidedly in their evaluation of their sentence than in their feelings about it. A CS subject might have no greater sense of justice than a probationer, but might consider his sentence much more 'sensible' than probation.

Finally, the subjects' perceptions of the future effects of their sentences confirmed previous impressions that the principles the CS subjects had in mind were moral ones - at least they professed, more so than the other subjects, a greater sense of understanding of the rights or problems of others and a greater sense of integration with others. They would not go so far as to say they would 'redeem' themselves in the eyes of their community - at least their relatively high score here could well have occurred by chance - but it was observed that all subjects tended to view the possibilities of redemption cynically.

CHAPTER IX: ATTITUDES TO THE SYSTEM

In this chapter we take a step away from the subjects' attitudes to their sentences, and proceed to consider to what extent the sentences may have influenced their more general attitudes to the criminal justice system. The subject's attitudes to the various key officials involved in the processing of their cases, and to the court procedure itself, are explored by means of a series of attitude scales. The hypothesis for each scale, it will be recalled, was that the CS group would, in comparison with the other groups, produce more positive (higher) scores.

Attitude to the Magistrates or Judge

The adjective-pair items making up this scale were selected with a view to representing attributes commonly mentioned by offenders in describing magistrates or judges; e.g., whether or not they listened to both sides of the case, whether they seemed competent, 'old-fashioned', 'set in their ways', or tended to be, in the subject's eyes, overly pessimistic or negative in general outlook. Added to these, however, are several adjective-pairs designed to test the extent to which the offender sees the bench as strong, understanding, humane, and generally approachable.

The item score distributions are given in Table IX-I. It will be seen that the Chi Square test reveals that the groups differed significantly on only four of the eleven items, and that on one of these (weak/strong personalities) it is the high scores of the Probation group which appear to account for the statistical significance of the

Table IX-1 Attitude to Magistrates Item Score Distribution

Scale Item	Group ^a	Score					p. < b
		(Negative) 1	2	3	(Positive) 4	5	
Unfair/fair (212)	Fine %	42.5	4.8	4.8	2.4	45.2	n.s.
	Probation	21.4	16.7	7.1	7.1	47.6	
	CS	14.6	12.5	6.3	6.3	60.4	
Don't know/know job (213)	Fine	14.3	9.5	11.9	7.1	57.1	n.s.
	Probation	11.9	2.4	9.5	11.9	64.3	
	CS	6.3	8.3	14.6	2.1	68.8	
Old-fashioned/modern (214)	Fine	45.3	2.4	19.1	11.9	21.4	n.s.
	Probation	40.5	9.5	26.2	4.8	19.0	
	CS	29.2	6.3	18.8	10.4	35.4	
Weak/strong personalities (214)	Fine	26.2	7.1	11.9	9.5	45.2	.05
	Probation	9.5	2.4	11.9	4.8	71.4	
	CS	8.3	2.1	22.9	14.6	52.1	
Rigid/flexible (216)	Fine	50.0	11.9	2.4	2.4	33.3	.01
	Probation	47.6	2.4	2.4	7.1	40.5	
	CS	16.7	10.4	6.3	4.2	62.5	
Not understanding/understanding (217)	Fine	35.7	4.8	16.7	11.9	31.0	n.s.
	Probation	21.4	4.8	26.2	7.1	40.5	
	CS	10.4	8.3	22.9	8.3	50.0	

Table IX-1 Attitude to Magistrates Item Score Distributions contd.

Scale Item	Group ^a	Score					p. <sup>b
		(Negative)		(Positive)			
		1	2	3	4	5	
Upper class/working class (218)	Fine %	73.8	11.9	2.4	2.4	9.5	.001
	Probation	69.0	7.1	14.3	0.0	9.5	
	CS	39.6	20.8	22.9	4.2	12.5	
Cold/warm personalities (219)	Fine	57.1	7.1	16.7	7.1	11.9	n.s.
	Probation	50.0	4.8	19.0	11.9	14.3	
	CS	33.3	10.4	31.3	4.2	20.8	
Severe/lenient (220)	Fine	33.3	9.5	31.0	4.8	21.4	n.s.
	Probation	19.0	7.1	35.7	4.8	33.3	
	CS	16.7	4.2	39.6	10.4	29.2	
Sees dark/bright side (221)	Fine	33.3	9.5	26.2	11.9	19.0	n.s.
	Probation	31.0	14.3	35.7	0.0	19.0	
	CS	22.9	6.3	47.9	4.2	18.8	
Social distance from magistrates (222)	Fine	54.8	19.0	14.3	9.5	2.4	.001
	Probation	50.0	14.3	19.0	9.5	7.1	
	CS	20.8	33.3	16.7	12.5	16.7	

- a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.
b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

difference. Closer inspection of the distributions shows, however, that almost all are in the predicted direction. Thus the CS group, in comparison with the others, generally produced greater proportions of subjects toward the positive ends of the scales and correspondingly smaller proportions scoring negatively. The exceptions are the weak/strong personalities item (214) mentioned just above, perhaps the don't know job item (213), and the sees dark/bright side item (221), where no clear trend appears to be suggested.

These impressions are confirmed in Table IX-2 where the analysis of variance shows that the groups differ significantly. The means are also ordered in the same way as was often found in the previous chapter; i.e., the Fine group scores the lowest mean, followed first by Probation, and then by the CS group. As regards control for the severity of sentence variable, the type of sentence expected measure does not appear in the analysis of covariance because it was not found to be significantly related to this attitude measure. The results therefore can be expected to hold whether or not a subject expected a prison sentence. As the table shows, however, when the perceived sentence severity variable and the age variable are introduced, the F-ratio is reduced, rendering the differences between the groups not quite statistically significant. As argued earlier, however, the perceived sentence severity variable tends to 'over-control' for sentence severity, and in view of the fact that the difference between the adjusted means still approaches significance, it would seem likely that there is in fact a statistically significant difference between the groups as to their attitudes to the magistrates.

Table IX-2 Attitude to Magistrates Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	29.4	32.7	36.7	33.2
Standard Deviation	11.1	10.6	10.6	11.1

Significance Tests

Analysis of Variance: $F(2, 129) = 5.20, p < .01$. Post-test comparisons significant at $p = .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 127) = 2.69, n.s. (p < .07)$. (Covariates: perceived sentence severity (123), $F = 3.35, n.s.$ age (259), $F = 4.92, p < .05$.)
Adjusted group means: Fine, 30.3; Prob., 32.9; CS, 35.9.

It will be observed that the results are not nearly as convincing as one might have hoped; certainly not as strong as some of those presented in the previous chapter regarding attitudes to the sentence itself. The differences between the groups just 'squeak by' with respect to statistical significance. Further, the group means are roughly equal distances apart, suggesting that the negative attitudes of the Fine group and the positive attitudes of the CS group both accounted for the overall differences.

Returning rather cautiously to the item distributions, then, it is difficult to pick out any very notable items. The data perhaps suggest that the CS subjects tended to see the magistrates or the judge as somewhat more flexible (216), 'modern' (214), and understanding (217) than did the other groups. The bench emerges for the CS group as relatively 'neutral' in the handling of the case (211),

and there may have been a slightly greater tendency for this group to see the bench as neither unduly negative and pessimistic or particularly positive and optimistic (221) in outlook. This latter result would at least seem consistent with the comment of several CS subjects that their sentence was 'neither soft nor hard' as a penalty.

The highly significant differences between the groups in their perception of the social class of the magistrates/judges (218) and sense of 'distance' from them (222) should also be noted. The CS group appears to show a little less tendency to regard the magistrates or the judge as 'upper class' or to reject social contact with them. It is possible, however, that these 'social distance' items were influenced by the catchment area (102) variable. Perhaps class consciousness is more prevalent, for example, in Cambridge where most of the fined subjects and many of the probationers were sentenced than it is in the other areas. The catchment area (102) variable was not, however, found to be related to the full scale scores of which these items are a part, and, as we shall see in the next chapter, it was not found to be related to the alienation scale which also includes these items and others like them.

Attitude to the Court Procedure

The results for this variable are given in Table IX-3 in the form of the item score distributions, and in Table IX-4 in the form of the mean scale scores and standard deviations. The scale items were intended to measure the extent to which the subjects perceived the court procedure applied in their case as fair, efficient, competent, humane, and understandable.

Table IX-3 Attitude To Court Procedure Item Score Distributions

Scale Item	Group ^a	Score					p. <sup>b
		(Negative) 1	2	3	4	(Positive) 5	
Unfair/fair (223)	Fine %	26.2	9.5	7.1	2.4	54.8	n.s.
	Probation	28.6	4.8	7.1	9.5	50.0	
	CS	8.3	0.0	10.4	14.6	66.7	
Rushed/careful (224)	Fine	52.4	4.8	2.4	4.8	35.7	n.s.
	Probation	42.9	4.8	7.1	0.0	45.2	
	CS	31.3	10.4	6.3	8.3	43.8	
Rude/polite (225)	Fine	26.2	7.1	26.2	11.9	28.6	.05
	Probation	14.3	2.4	21.4	7.1	54.8	
	CS	4.2	10.4	25.0	8.3	52.1	
Impersonal/personal (226)	Fine	64.3	7.1	11.9	2.4	14.3	.01
	Probation	47.6	2.4	4.8	9.5	35.7	
	CS	22.9	12.5	12.5	8.3	43.8	
Not understandable/understandable (227)	Fine	42.9	9.5	4.8	7.1	35.7	n.s.
	Probation	42.9	9.5	9.5	4.8	33.3	
	CS	16.7	10.4	14.6	12.5	45.8	

- a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.
b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table IX-4 Attitude to Court Procedure Scale

Measure	Fine	Probation	C.S.	All Groups
Mean	14.0	15.9	18.5	16.3
Standard Deviation	5.4	6.0	5.1	5.8

Significance Tests

Analysis of Variance: $F(2, 129) = 7.33, p. < .001$. Post-test comparisons significant at $p. .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 127) = 4.12, p. < .05$. (Covariates: perceived sentence severity (123), $F = 398, p. < .05$; age (259), $F = 8.62, p. < .01$.) Adjusted group means: Fine, 14.5; Prob., 16.0; CS, 18.0. Post-test comparisons significant at the .05 level using the Tukey HSD procedure: Fine vs CS.

As shown in Table IX-3, the groups differed significantly on only two of the five adjective pairs and in one of these cases - the rude/polite (225) item - it would appear that it is the negative scoring of the Fine group, rather than the positive scoring of the CS group, which accounts for most of the variance. The distributions for the Probation and CS groups on this item appear fairly similar. The impersonal/personal (226) item does emerge as predicted, although here again it will be noted that the markedly negative responses of many of the fined subjects on this item appear to account for the result at least to as great a degree as do the positive responses of the CS subjects. However, with the exception of the rude/polite item (225), all of the distributions do appear to be, in various degrees, in the predicted direction.

Proceeding to Table IX-4, we find that the group means do differ significantly. In view of the lack of any significant correlation

between the type of sentence expected variable and this attitude scale, these attitudes can be expected to hold whether or not the subject expected a prison sentence. Further, even when, as shown in the table, the perceived sentence severity measure is introduced along with the age variable, the F-ratio is still significant at the .05 level.

It would seem fair to say that the results suggest - although the differences are clearly not strong - that as one moves from the Fine through Probation to CS, there is a greater tendency for the subjects to feel the court procedure to be fair, more considerate of subject's individuality, and, particularly as regards the CS group, to regard the procedure as more understandable. A question might be raised, however, as to whether the differences between the groups were due not so much to the fact that the three sentences are based on different psychological assumptions, but rather that to some degree they in fact entail differences in sentencing procedure. Thus if the court is contemplating fining the offender it is presumably interested mostly in ascertaining only his economic circumstances. Arguably this takes much less time than deciding whether an offender is suitable for probation or for a CS order. Probation and CS usually require remanding a case for another hearing to allow a probation officer to conduct an enquiry, and then careful consideration of the ensuing report. In these circumstances it would not be surprising if the fined subject was prone to say that the procedure in his case was 'rushed', 'impersonal' and even not particularly 'understandable'. The criticism

would not apply so clearly, however, to the comparison between the Probation and CS groups, although the fact that the CS sentence is new might mean that it would be considered more carefully than Probation in each case by the court.

The possibility of such a 'procedural effect' must therefore be borne in mind in interpreting the results for this scale. There would seem to have been no way to control for the effect since sentencing procedures are of course inseparable from the sentence itself. In retrospect, at least the rushed/careful (224) item should have been eliminated on these rational grounds at the design stage. The effect of such items is arguably, however, not great. None of them showed any noticeable differences between the groups in the test of item-test correlation. (See Appendix 6 for the item-test correlation coefficients.) Further, examination of the results in Table IX-3 shows no significant difference between the groups on the rushed/careful (224) item where it would be most expected.

It would seem fair to conclude that there is probably some difference between the groups in support of the hypothesis that the CS group would show the most positive attitudes toward court procedure, although the differences are quite weak and possibly due to some extent to the differences in the procedure entailed in each sentence.

Attitude to the Police

The adjective-pair items making up the attitude to the police scale were intended to represent comments typically made by offenders about the treatment they receive at the hands of the police: Were the police polite, neutral, competent, and fair? Did they seem understanding? Were they reasonably able to communicate with offenders? Could one imagine them as friends?

The item score distributions are given in Table IX-5, where it will be seen that the preliminary analysis by means of the Chi Square test revealed no significant difference between the groups on any of the items. Nor does inspection of the data suggest any trends.

These results are confirmed in Table IX-6 where inspection reveals virtually no difference between the group means, and the analysis of variance demonstrates the lack of any significant difference.

The outcome for this variable would seem to suggest that the subjects' evaluation of the police was independent of their sentence. The subjects did not seem to hold the police in any way 'responsible' for their sentence one way or the other, and it might be noted in passing that none of the control variables showed any significant relationship with attitudes towards the police (see Appendix 6). The result would appear to be consistent with that of Willett (1973)

Table IX-5 Attitude to Police Item Score Distributions

Scale Items	Group ^a	Score					p. < b
		(Negative) 1	2	3	4	(Positive) 5	
Rude/polite (228)	Fine %	33.3	4.8	9.5	7.1	45.2	n.s.
	Probation	38.1	4.8	11.9	7.1	38.1	
	CS	31.3	10.4	14.6	2.1	41.7	
Prejudiced/neutral (229)	Fine	35.7	7.1	2.4	0.0	54.8	n.s.
	Probation	35.7	4.8	7.1	4.8	47.6	
	CS	22.9	10.4	14.6	10.4	41.7	
Rushed/careful (230)	Fine	28.6	9.5	9.5	9.5	42.9	n.s.
	Probation	33.3	0.0	7.1	7.1	52.4	
	CS	27.1	12.5	4.2	4.2	52.1	
Don't know/know job (231)	Fine	16.7	4.8	9.5	7.1	61.9	n.s.
	Probation	4.8	2.4	16.7	4.8	71.4	
	CS	8.3	2.1	8.3	12.5	68.8	
Unfair/fair (232)	Fine	31.0	11.9	4.8	4.8	47.6	n.s.
	Probation	23.8	4.8	11.9	9.5	50.0	
	CS	22.9	12.5	8.3	0.0	56.3	
Not understanding/understanding (233)	Fine	31.0	4.8	16.7	9.5	38.1	n.s.
	Probation	28.6	4.8	21.4	4.8	40.5	
	CS	35.4	12.5	18.8	12.5	20.8	
Can not/can see as friend (234)	Fine	42.9	2.4	9.5	9.5	35.7	n.s.
	Probation	50.0	0.0	2.4	9.5	38.1	
	CS	50.0	4.2	6.3	8.3	31.3	

a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table IX-6 Attitude to Police Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	23.2	23.7	23.1	23.3
Standard Deviation	9.2	8.2	8.3	8.5

Significance Test

Analysis of Variance: $F(2, 129) = 0.07, n.s.$

who found a reasonably high regard for the police among motoring offenders despite their criticisms of the sentences they received.¹

Attitude to the Prosecutor

The adjective-pairs selected for this scale are identical to those applied to the police. The item distributions are given in Table IX-7, and the group means followed by statistical analysis in Table IX-8.

In Table IX-7 it will be seen that there were no significant differences between the groups on any of the items except for one. The exception is the not understanding/understanding item (240) where the relatively positive scores of the CS group appear to account for the significant difference. Unlike the results for the police,

1. The results here are also consistent with Willett's (1973) findings in that the majority of offenders reveal moderate to positive attitudes toward the police.

Table IX-7 Attitude to Prosecutor Item Score Distributions

Scale Item	Group ^a	Score					p. < b
		(Negative) 1	2	3	4	(Positive) 5	
Rude/polite (235)	Fine	38.1	4.8	11.9	0.0	45.2	n.s.
	Probation	31.0	7.1	11.9	4.8	45.2	
	CS	22.9	4.2	8.3	16.7	47.9	
Prejudiced/neutral (236)	Fine	31.0	2.4	0.0	2.4	64.3	n.s.
	Probation	35.7	4.8	2.4	4.8	52.4	
	CS	25.0	8.3	4.2	4.2	58.3	
Rushed/careful (237)	Fine	31.0	7.1	7.1	4.8	50.0	n.s.
	Probation	28.6	9.5	2.4	0.0	59.5	
	CS	10.4	6.3	6.3	12.5	64.6	
Doesn't know/knows job (238)	Fine	4.8	2.4	4.8	2.4	85.7	n.s.
	Probation	0.0	0.0	9.5	7.1	83.3	
	CS	2.1	0.0	4.2	6.3	87.5	
Unfair/fair (239)	Fine	31.0	7.1	11.9	4.8	45.2	n.s.
	Probation	31.0	9.5	4.8	2.4	52.4	
	CS	18.8	0.0	14.6	10.4	56.3	
Not understanding/understanding (240)	Fine	40.5	9.5	14.3	2.4	33.3	.05
	Probation	35.7	7.1	28.6	2.4	26.2	
	CS	16.7	8.3	29.2	8.3	37.5	
Can not/can see as friend (241)	Fine	71.4	7.1	0.0	7.1	14.3	n.s.
	Probation	71.4	9.5	4.8	2.4	11.9	
	CS	54.2	10.4	10.4	2.1	22.9	

- a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.
b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table IX-8 Attitude to Prosecutor Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	22.6	22.7	25.7	23.8
Standard Deviation	7.4	8.1	7.1	7.6

Significance Tests

Analysis of Variance: $F(2, 129) = 2.50, n.s. (p. < .10).$

however, four of the remaining six items - rude/polite (235), rushed/careful (237), unfair/fair (239) and cannot/can see as friend (241) - suggest, although often only weakly, that the CS group tended to score relatively positively.

The trend suggested by Table IX-7 receives, however, only very limited support in Table IX-8. Although the CS group shows the highest mean, the differences between it and those of the other groups does not achieve significance, and would doubtless be further reduced if adjustments were made for the influence of the relevant control variables.² For what it is worth, it may be observed that the results are at least in the expected direction.

2. The analysis of covariance test was not applied unless the analysis of variance showed a significant difference between the groups.

Change of Attitude to the System

The final question in this section of the questionnaire was as follows:

As a result of your sentence this time, has your general attitude toward the justice system changed at all? Is it more negative or worse, or is it more positive or better, or is it about the same as it was before?

The subject was asked to rate his response on a five-point scale ranging from 'definitely more negative' through to 'definitely more positive'.

The results are given in Table IX-9, where it will be seen that there are highly significant differences between the group means. Comparisons of the means show that while the Fine and Probation groups do not differ significantly, the CS group mean differs significantly from each of them. This result remains undisturbed with the introduction of control for the employment stability index (279) by means of the analysis of covariance test.

Table IX-9 Change of Attitude to the System

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	2.8	3.1	3.6	3.2
Standard Deviation	1.0	0.9	0.9	1.0

Significance Tests

Analysis of Variance: $F(2, 129) = 9.39, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $F(2, 128) = 10.19, p. < .001$. (Covariate: employment stability index (279) $F = 4.93, p. < .05$.) Adjusted group means: Fine, 2.8; Prob., 3.1; CS, 3.6. Post-test comparisons significant at $p. < .05$ using the Tukey HSD procedure: Fine vs CS; Prob vs CS.

The result for this variable is almost surprising considering the difficulties described above in demonstrating any very convincing differences between the groups in terms of their attitudes to the various officials involved in the criminal justice procedure. It is almost as if the CS subjects, after showing only very moderately more positive attitudes to some of the criminal justice officials than the other groups, were suddenly given the opportunity to express a positive response in a forthright way. One explanation is perhaps that the subjects tended to associate the question with the sentence they had received. The result is thus rather reminiscent of some of the data given in Chapter VIII concerning attitudes to the sentence. In this light it is difficult to know how valid the question is as an indication of attitudes to the system. On the other hand, such a decisive result is encouraging. If nothing else the CS subjects did not dissociate their sentence from the system which imposed it.

Summary

The first thing to be noted is that the results given in this chapter give much weaker support to the hypotheses than did the results given in the previous chapter. Only the last item - a straight question about whether the subject felt the sentence would influence his general attitude to the system - provides rather more robust support for the hypothesis; and this, as pointed out, might be due in part to the fact that the question referred to the effects of the sentence. The strongest results are found in attitude to the court procedure, but differences in court procedure entailed in the different sentences, and the fact that CS is a new sentence, might have contributed to the more positive responses of the CS subjects.

But despite such caveats, the results are still encouraging and interesting on several counts. First, it was to be expected that the differences between the groups would grow weaker as we moved away from the response of the subject to the sentence itself. Such a 'waning of effect' would in fact seem apparent even within the scope of this chapter; i.e., while significant differences between the groups are found in attitude to the magistrates and to some degree in attitude to the court procedure, there is only a suggestion that the CS group responded more positively to the prosecutor, and no demonstrable difference between the groups in attitude to the police. The more removed the attitudinal object from the sentence itself, it appears, the less the effect.

Secondly, it is important to appreciate what effects do appear. In general, it would seem fair to say that the CS group, relative to the others, appears to have considered the magistrates or judges a little more objective, fair, understanding and approachable; a little more 'human' and reasonable. With respect to the court procedure, despite procedural differences between the sentences, it may well be that the CS subjects tended to regard it also as more fair, 'personal', and understandable.³

3. It might be noted in passing that the items designed to measure the subject's estimate of the 'competence' of the various officials (item 213, 231 and 238) all failed to show significant differences between the groups and in fact largely failed to adequately distribute the responses. The questions were included not, of course, in the expectation that offenders are good judges of the technical competence of the system's administrators, but rather under the assumption that, as Matza (1964) argues, offenders' judgements about the competence of the (continued)

Finally, it should be noted that the group means for all scales, with the exception of the Attitude to the Police scale, are in the expected direction, with the CS group mean consistently the highest. With the exception of the Attitude to the Police scale, the CS group mean is in absolute terms always clearly distinguishable from that of each of the other groups.

system's administrators are 'intensely subjective' (p. 139). It was hoped the items might therefore contribute to the measurement of the total attitudinal response of the subjects, and in fact originally I intended to construct a 'Competence of the System' scale. As it has turned out, since the subjects in all groups tended to regard the officials as competent, the items were not useful for that purpose. It is of course possible that the assessment of competence is made up of more than one component, as Matza (1964, p. 139) suggests, and that the items used here were too crude and too ambiguous.

CHAPTER X: SOCIAL ATTITUDES

This chapter brings the study finally to a description of the results for those measures which come the closest to what the Advisory Council and others called the offender's 'social attitudes', 'attitudes to society', or general 'outlook'. In translating such broad and ambiguous terms into empirically researchable concepts, the goal was to select certain general attitudes which are usually considered to have a relationship with one's 'social adjustment', and specifically with law-abiding and law-breaking behaviour.

Accordingly, as outlined in the description of the research plan in Chapter V, four general attitudes were selected for measurement: the 'sense of justice', the 'sense of self-respect', the 'sense of responsibility', and the 'sense of alienation'. These measures were based variously a) on a few individual items not yet presented, b) on attitude scales constructed from a composite of adjective-pair items which already appeared in the previous scales concerning attitudes to the sentence (Chapter VIII) and attitudes to the system (Chapter IX), and c) on several short attitude scales selected from the relevant social-psychological literature.¹ The hypothesis, it will be recalled, was that the CS group would produce more positive scores than either of the other two groups on all measures.

1. See Chapter IV, pages 181-188 for a discussion of the construction of the attitude scales.

The Sense of Justice

The subjects' general sense of the fairness or justice of the treatment accorded them is measured by means of two scales: the Sense of Justice scale and the Fairness of the System scale. The two scales are of course rather closely related, and in fact consideration was given to presenting the data in the form of a single scale. The Sense of Justice scale, however, is intended to reflect the emotional aspect of a subject's attitude toward justice, and the Fairness of the System scale to reflect the rational or evaluative component. It will be recalled that a similar distinction was made in Chapter VIII with respect to the subject's response to his sentence; i.e., the Feelings after Sentence scale was intended to measure what the subject felt about his sentence, and the Evaluation of Sentence scale to measure what he thought about it. It was argued there that since CS appeared, particularly in contrast to the fine, to appeal to a subject's sense of moral principle, the effects of CS might be more apparent with respect to a subject's rational assessment of his sentence as opposed to his emotional reaction to it. The distinction between the two scales presented here reflects the same reasoning. It was considered plausible that the CS group would produce relatively positive scores on the Fairness of the System scale and conversely that the Fine group might produce relatively negative scores on the Sense of Justice scale. At least the possibility seemed worth exploring.

Also included in this section is the Helpfulness of the System scale. As the scale title indicates, the aim here was to measure the extent to which a subject regarded the treatment he received as helpful, constructive, or expressing an understanding of his

circumstances. The measure could have been dealt with separately, but it seemed not inappropriate to include it here along with the 'Fairness' and 'Justice' scales. It will be recalled from Chapter III that some theorists regard humanitarianism or altruism as an extension of the justice principles of equity and equality, and label it the 'justice of need'. It was pointed out that humanitarianism in the sense of forgiveness or understanding tended to mitigate or limit the requirements of equity. A subject's notion of the helpfulness of the system can thus be thought of as related to his estimate of its justice.

The item score distributions for the Sense of Justice scale are given in Table X-1 and the group mean scores in Table X-2. Inspection of Table X-1 shows that although the first two items, which pertain directly to feelings after sentence, are strongly as predicted, the remaining four did not reveal any significant differences or meaningful trends. It is almost surprising, therefore, that in Table X-2 a reasonably clear trend appears and that the differences between the group means did achieve statistical significance. The significance of the difference is clearly accounted for by the difference between the Fine and the CS group means.

The differences between the means are quite small, however, and when the effects of the control variables are introduced by means of the analysis of covariance - particularly the type of sentence expected variable - the differences are found to be clearly

Table X-1 Sense of Justice Item Score Distributions

Scale Item	Group ^a	Score					p. < ^b	
		(Negative)	1	2	3	4		(Positive)
Feeling bitter/grateful after sentence (128)	Fine %		23.8	4.8	21.4	7.1	42.9	.001
	Probation		7.1	4.8	9.5	16.7	61.9	
	CS		2.1	0.0	6.3	4.2	87.5	
Feeling angry/not angry after sentence (130)	Fine		21.4	4.8	9.5	0.0	64.3	.001
	Probation		2.4	2.4	4.8	4.8	85.7	
	CS		2.1	0.0	2.1	2.1	93.8	
Magistrates severe/lenient (220)	Fine		33.3	9.5	31.0	4.8	21.4	n.s.
	Probation		19.0	7.1	35.7	4.8	33.3	
	CS		16.7	4.2	39.6	10.4	29.2	
Magistrates see dark/bright side (221)	Fine		33.3	9.5	26.2	11.9	19.0	n.s.
	Probation		31.0	14.3	35.7	0.0	19.0	
	CS		22.9	6.3	47.9	4.2	18.8	
Police prejudiced/neutral (229)	Fine		35.7	7.1	2.4	0.0	54.8	n.s.
	Probation		35.7	4.8	7.1	4.8	47.6	
	CS		22.9	10.4	14.6	10.4	41.7	
Prosecutor prejudiced/neutral (236)	Fine		31.0	2.4	0.0	2.4	64.3	n.s.
	Probation		35.7	4.8	2.4	4.8	52.4	
	CS		25.0	8.3	4.2	4.2	58.3	

a. n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table X-2 Sense of Justice Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	19.6	21.4	22.8	21.3
Standard Deviation	6.0	4.7	4.2	5.1

Significance Tests

Analysis of Variance: $F(2, 129) = 4.50, p. < .05$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 127) = 1.77, n.s.$ (Covariates: Type of sentence expected (121), $F = 5.95, p. < .05$; number of previous convictions (269), $F = 0.99, n.s.$) Adjusted group means: Fine, 20.2; Prob., 21.3; CS, 22.3.

non-significant. There remains only the fact that the means are ordered in the same way as they were prior to the introduction of the control measures, a result which at least is in the expected direction.

Turning to the Fairness of the System scale, the item score distributions are given in Table X-3 and the group means in Table X-4. It will be seen in Table X-3 that on only one of the five items (133) do the groups differ significantly as predicted. The results are, however, in the expected direction on three of the remaining items.

These results are confirmed in Table X-4 where the analysis of variance shows the groups to differ significantly roughly in the same way as for the previous scale. The difference again is primarily due to the difference between the Fine and CS group means. Again, however, with the introduction of the covariates the differences between the groups become non-significant, although the remaining differences between the adjusted group means are

Table X-3 Fairness of the System Item Score Distributions

Scale Item	Group ^a	Score					p. < b
		(Negative) 1	2	3	4	(Positive) 5	
Sentence unfair/fair (133)	Fine %	16.7	7.1	7.1	4.8	64.3	.05
	Probation	11.9	7.1	0.0	0.0	81.0	
	CS	6.3	0.0	4.2	4.2	85.4	
Magistrates unfair/fair (212)	Fine	42.9	4.8	4.8	2.4	45.2	n.s.
	Probation	21.4	16.7	7.1	7.1	47.6	
	CS	14.6	12.5	6.3	6.3	60.4	
Court procedure unfair/fair (223)	Fine	26.2	9.5	7.1	2.4	54.8	n.s.
	Probation	28.6	4.8	7.1	9.5	50.0	
	CS	8.3	0.0	10.4	14.6	66.7	
Police unfair/fair (232)	Fine	31.0	11.9	4.8	4.8	47.6	n.s.
	Probation	23.8	4.8	11.9	9.5	50.0	
	CS	22.9	12.5	8.3	0.0	56.3	
Prosecutor unfair/fair (239)	Fine	31.0	7.1	11.9	4.8	45.2	n.s.
	Probation	31.0	9.5	4.8	2.4	52.4	
	CS	18.8	0.0	14.6	10.4	56.3	

a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table X-4 Fairness of the System Scale

Measure	Fine	Probation	C.S.	All Groups
Mean	17.0	18.1	20.2	18.5
Standard Deviation	5.6	4.6	4.5	5.1

Significance Tests

Analysis of Variance: $F(2, 129) = 4.97, p. < .01$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 127) = 2.38, n.s. (p. < .10)$. (Covariates: Type of sentence expected (121), $F = 2.11, n.s.$; number previous convictions (269), $F = 3.37 n.s.$)
Adjusted group means: Fine, 17.4; Prob., 18.2; CS, 19.7.

perhaps a little healthier than they were in the previous scale. It might also be noted that for the 'justice' and the 'fairness' scales the significant differences between the means disappeared with the introduction of merely the weaker of the two measures of sentence severity, i.e., type of sentence expected (121). The adjusted means might be still closer together if the subjects' perceived sentence severity score had been used as the control measure for sentence severity.²

Finally, the item score distributions and the group means for the Helpfulness of the System scale are given respectively in

2. Perceived sentence severity was not used for control purposes unless a significant difference still remained after introducing sentence type expected. See Chapter VI for a discussion of the control of the sentence severity variable, and for a note on the statistical treatment of the data.

Tables X-5 and X-6. Here, the groups differ significantly on four of the six items, although on one of these (item 160) the difference is clearly due to the negative scoring of the Fine group. These results are confirmed in Table X-6 where the analysis shows the group means to differ significantly, a difference which holds when both measures of sentence severity (type of sentence expected and perceived sentence severity) are successively taken into account by the analysis of covariance.

It is clear even by inspection, however, that it is the low mean score of the Fine group which accounts for most of the variance between the means. The specific comparisons of group means show that the Probation and CS groups do not differ significantly. Further, returning to Table X-5, the heavy dependence of these results on the Attitude to the Sentence scale items (item 132, 135 and 160), and particularly the negative scoring of the Fine group on these scale items, is evident.

In summary, the results for this section must be considered rather disappointing. The prediction that CS would foster a stronger sense of justice independently of its severity is given only very weak support. Perhaps some encouragement can be taken from the fact that, as predicted, the CS group fares slightly better on the Fairness of the System scale than it does on the Sense of Justice scale, and in the fact that the differences between the groups do approach significance on the former scale. Further, the group means for both of these scales, even when

Table X-5 Helpfulness of the System Scale Item Score Distributions

Scale Item	Group ^a	Score					p. - b
		(Negative) 1	2	3	4	(Positive) 5	
Not hopeful/hopeful after sentence (132)	Fine %	33.3	0.0	14.3	16.7	35.7	.001
	Probation	16.7	0.0	16.7	7.1	59.5	
	CS	4.2	2.1	16.7	4.2	72.9	
Sentence harmful/helped (135)	Fine	45.3	9.5	19.0	2.4	23.8	.001
	Probation	7.1	0.0	16.7	26.2	50.0	
	CS	2.1	6.3	20.8	4.2	66.7	
Effect of sentence on self-understanding (160)	Fine	76.2	7.1	4.8	7.1	4.8	.001
	Probation	31.0	4.8	14.3	21.4	28.6	
	CS	33.3	2.1	20.8	18.8	25.0	
Magistrates not understanding/understanding (217)	Fine	35.7	4.8	16.7	11.9	31.0	n.s.
	Probation	21.4	4.8	26.2	7.1	40.5	
	CS	10.4	8.3	22.0	8.3	50.0	
Police not understanding/understanding (233)	Fine	31.0	4.8	16.7	9.5	38.1	n.s.
	Probation	28.6	4.8	21.4	4.8	40.5	
	CS	35.4	12.5	18.8	12.5	20.8	
Prosecutor not understanding/understanding (240)	Fine	40.5	9.5	14.3	2.4	33.3	.05
	Probation	35.7	7.1	28.6	2.4	26.2	
	CS	16.7	8.3	29.2	8.3	37.5	

a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table X-6 Helpfulness of the System Scale

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	16.2	20.6	21.6	19.6
Standard Deviation	5.2	4.8	4.8	5.4

Significance Tests

Analysis of Variance: $F(2, 129) = 14.40$, $p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2, 128) = 10.19$, $p. < .001$. (Covariates: type of sentence expected (212), $F = 3.31$, n.s.) Adjusted group means: Fine, 16.6; Prob., 20.5; CS, 21.3. Post-test comparisons significant at the .05 level using the Tukey HSD procedure; Fine vs Prob.; Fine vs CS.

Analysis of Covariance: $F(2, 127) = 7.68$, $p. < .001$. (Covariates: type of sentence expected (121), $F = 0.46$, n.s.; perceived severity rating (123) $F = 10.79$, $p. < .01$.) Adjusted group means: Fine, 17.0; Prob., 20.5; CS, 20.9. Post-test comparisons significant at the .05 level using the Tukey HSD procedure: Fine vs Prob.; Fine vs CS.

adjusted for the influence of the control variables, are consistently in the expected direction. With respect to the Helpfulness of the System scale, the strongly negative attitude of the fined subjects towards their sentence dominates the statistical analysis. The fact, however, that CS is considered at least as helpful as probation, a sentence largely designed to assist, support, and guide offenders, and presumably to convey at least a readiness to understand them, is rather striking. CS, as it were, threatens to beat probation at its own game. We will be returning particularly to this result in the discussion in the final chapter.

The Sense of Self-Respect

The items chosen for this scale were deemed to reflect a feeling on the part of the subject of being 'put down' or degraded as a person by the sentence he received, by the procedures employed, or by the treatment he received at the hands of the system personnel. The item score distributions are given in Table X-7 and the group means and standard deviations in Table X-8.

In table X-7 it will be seen that the group means are statistically different. The differences are somewhat reduced when control is introduced for the effects of sentence severity, but remain significant. It will be seen also that although the CS mean does not differ significantly from the mean of the Probation group, the difference between them is in the predicted direction, and the 'lead' of the CS group seems apparent. The result thus gives reasonable support to the hypothesis.

The Sense of Responsibility

It was hypothesized that among the positive effects of CS was that it would promote a greater sense of responsibility for wrongdoing. It proved difficult, however, to devise a satisfactory measure of this variable. The data given here represent the outcome of a rather disparate group of measures which hopefully will give some sense of the subject's responses on this variable.

Table X-7 Self-Respect Item Score Distributions

Scale Item	Group ^a	Score					p. < ^b
		(Negative) 1	2	3	4	(Positive) 5	
Feeling degraded/not degraded after sentence (129)	Fine %	9.5	2.4	2.4	4.8	81.0	n.s.
	Probation	19.0	4.8	4.8	0.0	71.4	
	CS	16.7	4.2	4.2	2.1	72.9	
Effect of sentence on self-esteem (158)	Fine	76.2	7.1	7.1	4.8	4.8	.001
	Probation	40.5	0.0	21.4	19.0	19.0	
	CS	27.1	4.2	20.8	22.9	25.0	
'Moral' (Atonement) effect of sentence (161)	Fine	69.0	2.4	11.9	9.5	7.1	.001
	Probation	57.1	9.5	11.9	7.1	14.3	
	CS	31.3	12.5	27.1	16.7	12.5	
Stigmatizing effect of sentence (162)	Fine	26.2	11.9	52.4	4.8	4.8	.001
	Probation	19.0	11.9	47.6	16.7	4.8	
	CS	4.2	4.2	35.4	25.0	31.3	
Court procedure rude/polite (225)	Fine	26.2	7.1	26.2	11.9	28.6	.05
	Probation	14.3	2.4	21.4	7.1	54.8	
	CS	4.2	10.4	25.0	8.3	52.1	
Police rude/polite (228)	Fine	33.3	4.8	9.5	7.1	45.2	n.s.
	Probation	38.1	4.8	11.9	7.1	38.1	
	CS	31.3	10.4	14.6	2.1	41.7	
Prosecutor rude/polite (235)	Fine	38.1	4.8	11.9	0.0	45.2	n.s.
	Probation	31.0	7.1	11.9	4.8	45.2	
	CS	22.9	4.2	8.3	16.7	47.9	

a. n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table X-8 Self-Respect Scale

Measure	Fine	Probation	CS	All Groups
Mean	19.8	21.8	24.4	22.1
Standard Deviation	4.7	5.8	5.4	5.6

Significance Tests

Analysis of Variance: $F(2, 129) = 8.39, p < .001$. Post-test comparisons significant at $p < .05$, using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 128) = 6.09, p < .01$. (Covariate: type of sentence expected (121), $F = 1.57, n.s.$) Adjusted group means: Fine, 20.1; Prob., 21.7; CS, 24.2. Post-test comparisons significant at $p < .05$ using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 127) = 4.66, p < .05$. (Covariates: type of sentence expected (121), $F = 0.02, n.s.$; perceived sentence severity (123), $F = 2.96, n.s.$). Post-test comparisons significant at $p < .05$ using the Tukey HSD procedure: Fine vs CS. Adjusted group means: Fine, 20.3; Prob., 21.8; CS, 23.9.

The first two measures took the form of rating scales wherein each subject was categorized with respect to his attitude first to his conviction and then to the offence. The question with respect to the conviction was: Why did you plead guilty/not guilty?

The responses to this question are given in Table X-9. The 'clear admission' category represents those responses where the subject indicated that he felt he had no other option but to plead guilty since he was in fact guilty of the offence. The 'equivocal admission' category was applied when the subject, while admitting the offence, would imply that he had plead guilty because, for example, he did not have the money to retain counsel, or his lawyer had advised him to plead in that way, or he was protecting friends -

Table X-9 Attitude to the Conviction (168)

Response	Fine		Probation		CS	
	n	%	n	%	n	%
Clear admission	3	7.1	17	40.4	16	33.3
Equivocal admission	22	52.4	21	50.0	25	52.1
Equivocal denial	12	28.6	2	4.8	3	6.2
Clear denial	5	11.9	2	4.8	4	8.4
Totals	42	100.0	42	100.0	48	100.0

Significance Tests

Comparing the groups and those showing a clear admission with the remainder, using the Marascuilo procedure: $U' = 21.50, 2 \text{ df}$, $p < .001$; Fine vs Prob., $p < .001$; Fine vs CS, $p < .001$; Prob. vs CS, n.s.

Comparing the same distributions by the same procedure weighted for the effect of perceived sentence severity (123); $U = 15.88, 2 \text{ df}$, $p < .001$; Fine vs Prob., $p < .01$; Fine vs CS, $p < .05$; Prob. vs CS, n.s.

anything short of frankly and openly admitting the offence. The equivocal denial category was chosen where a subject seemed to be rationalizing the offence or his involvement in it to the point of denying it; arguing, for instance, that he had been misunderstood by the judge, had been the least involved of several co-defendants, or had plead guilty to 'get it over with' because of defence costs. Finally the 'clear denial' category was applied to those subjects, most of whom had plead not guilty, who completely denied responsibility for the offence. The response categories thus represent a dimension with respect to acceptance of responsibility. It should be added that it is assumed here that all subjects were rightly convicted, or at least that the proportion of wrongful convictions was the same for all groups.

Turning to the results in Table X-9 it would seem apparent that the Fine group tended most noticeably to avoid acceptance of the conviction. This is consistent with the impressions of this group described in Chapter VIII; i.e. the Fine group seemed generally negative and complaining in general attitude. The result was confirmed in the statistical testing; i.e. while the Probation and CS groups did not differ significantly, the Fine group differed from each of them.

The results for the attitude to the offence measure are given in Table X-10. The subjects were asked the following question:

What do you feel about your offence now? (Prompt: Do you have any regrets over it?)

Table X-10 Attitude to the Offence (169)

Response	Fine		Probation		CS	
	n	%	n	%	n	%
Clear acceptance	17	40.5	25	59.5	32	66.7
Indifference	6	14.3	10	23.8	4	8.3
Evasion, justification, excuse	2	4.8	3	7.1	6	12.5
Clear rejection	17	40.5	4	9.5	6	12.5
Totals	42	100.0	42	100.0	48	100.0

Statistical Analysis

Comparing the groups and those showing clear acceptance with the remainder, using the Marascuilo procedure; $U' = 6.91, 2df,$ $p. < .05$; Fine vs Prob., n.s., Fine vs CS, $p. < .05$; Prob. vs CS, n.s.

Comparing the same distributions by the same procedure:

- a) Weighted for the effect of perceived sentence severity (123): $U' = 2.90, 2df,$ n.s.
- b) Weighted for the effect of court type (108): $U' = 4.24, 2df,$ n.s.

The responses were categorized as indicated in the table, and are largely self-explanatory. The 'clear acceptance' category indicates those responses where the subject either clearly expressed regret or remorse for the offence or at least showed a tendency to be self-critical, coupled perhaps with a desire to 'put the offence behind' him. The subjects classified as 'indifferent' showed a careless, casual, or fatalistic attitude toward the offence. The remaining categories are self-explanatory. As a whole the measure represents a rough dimension from clear acceptance of responsibility for the offence through to outright rejection of responsibility.

The outcome here is clearly not as strong as that for the previous table, a result confirmed by the statistical analysis. Unlike the previous data, however, the slightly higher proportion of CS subjects rated in the clear acceptance category suggests that the positive responses of the CS group account for more of the variance. To that extent, at least, the results are in accord with the hypothesis.

The incidence of Probation subjects in the 'indifference' category is perhaps worth noting in passing. Probation, of course, is a sentence which addresses itself rather straightforwardly to the offender, and the suggestion here that almost one in four appear to show no strong concern about their offence would not seem surprising.

The subjects were also asked a series of questions in the form of five-interval bi-polar scales intended to elicit their sense of responsibility for their offences - the extent to which they expressed regret or remorse, tended to blame themselves rather than others,

and so on. Originally it had been intended to combine these individual scales to form a multiple-item ad hoc scale, but it was found that the resulting scale was not sufficiently homogeneous to be treated as such (See Table VI-1). It was therefore difficult to know what the questions were measuring, if anything. It seemed worthwhile, nevertheless, to report the results of the questions very briefly here, for whatever value they might have in terms of exploration of the attitude.

The data are given in Table X-11 in the form of the frequency distributions, in percentages, in a way similar to that used for previous scales. It will be seen that on only one of these single-item scales ('arrest due to bad luck' vs 'arrest bound to happen') did the distributions differ significantly, and it is the irresponsible, or at least fatalistic, attitude of the Fine group which appears to account for this result. There are no significant differences and no trends worth mentioning in the other scales.

Finally, the results of the adapted form of the Social Responsibility scale developed by Berkowitz and Daniels (1964) are given in Table X-12 (see Chapter VI pp. 186-188 for a description of the scale, Appendix 5 for the items verbatim, and Appendix 7 for the data for each item). Inspection shows the means for each group to be in fact equal.

In summary, the hypothesis that CS might promote a greater sense of responsibility in offenders is given only very weak support by

Table X-11 Responsibility for the Offence Item Score Distributions

Scale Item	Group ^a	Score					p. < b
		(Negative) 1	2	3	4	(Positive) 5	
No regret/great regret for Offence (170)	Fine %	16.7	2.4	35.7	28.6	16.7	n.s.
	Probation	23.8	11.9	11.9	16.7	35.7	
	CS	16.7	10.4	27.1	22.9	22.9	
Arrest due to bad luck/arrest bound to happen (172)	Fine	50.0	16.7	11.9	0.0	21.4	.01
	Probation	35.7	2.4	19.0	2.4	40.5	
	CS	33.3	2.1	22.9	2.1	39.6	
Influence by others great/none (173)	Fine	7.1	4.8	2.4	19.0	66.7	n.s.
	Probation	26.2	4.8	9.5	9.5	50.0	
	CS	18.8	4.2	6.3	2.1	68.8	
Committed offence for benefit of others/self (175)	Fine	9.5	4.8	28.6	11.9	45.2	n.s.
	Probation	11.9	2.4	31.0	11.9	42.9	
	CS	6.3	0.0	27.1	4.2	62.5	
Offence due to situation/own choice (176)	Fine	31.0	4.8	28.6	2.4	33.3	n.s.
	Probation	23.8	4.8	28.6	7.1	35.7	
	CS	31.3	8.4	25.0	8.3	27.1	

a. n-42, 42, and 48 for the Fine, Probation and CS groups respectively.

b. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

Table X-12 Social Responsibility Scale^a.

<u>Measure</u>	<u>Fine</u>	<u>Probation</u>	<u>C.S.</u>	<u>All Groups</u>
Mean	3.9	3.9	3.9	3.9
Standard Deviation	1.4	1.3	1.3	1.4

a. After Berkowitz and Daniels (1964), adapted.

the measures reported in this section. The Attitude to the Conviction variable does not show CS to differ from Probation, and it would seem clear that it is the strongly negative attitude of the Fine group which accounts for the overall significant difference between the groups. The Attitude to the Offence measure is somewhat more encouraging, and the results here are at least consistent with the data arising from several scales and indeed with impressions of the group attitudes reported in Chapter VIII; i.e., the Fine group seemed to be negative and evasive, the Probation group moderate and to some extent indifferent, and the CS group the most positive or constructive in their general response to their sentences. A general weakness, however, of these two scales is that they are based of course on an interpretation of the subject's response, and the possibility of distortion due to 'experimenter bias' cannot be ruled out.

When we turned to the responsibility-for-the-offence scales the results are yet more discouraging: there appears virtually no evidence that the CS group produced more positive scores. Finally, the results of Berkowitz and Daniels' (1964) Social Responsibility scale (Table X-12) revealed no difference between the groups whatsoever.

The Sense of Alienation

We come finally to the 'sense of alienation', perhaps the most abstract of these general social attitudes. There are three scales to report the results for, the first being a scale composed of the adjective-pair items taken from the previous measure, and the remaining two taken from the alienation literature. The various items selected for the first scale are intended to reflect a sense of distance, separation, or isolation on the part of the subject from the criminal justice procedures and from the personnel involved, and to some extent a sense of powerlessness.

The results of the composite scale are given in Tables X-13 and X-14. It will be seen that the results here are much more supportive of the hypotheses than the previous scales reported in this chapter have been. In Table X-13 several of the items show a significant difference between the groups as predicted, and the others are in the expected direction with the exception of cannot/can see police as friend (234).

These results are confirmed in Table X-14. According to the analysis of variance, the CS group mean is significantly higher (more positive) than either of the other groups. The first analysis of covariance does reduce the differences between the groups somewhat, and renders the difference between the CS and Probation means non-significant. The group means remain in the same order, however, and the significant overall result holds even when the more stringent control for sentence severity (perceived sentence severity) is introduced in the second analysis of covariance.

Table X-13 Alienation Item Score Distributions

Scale Item	Group ^a	Score					p. - b
		(Negative) 1	2	3	4	(Positive) 5	
Magistrates rigid/flexible (216)	Fine %	50.0	11.9	2.4	2.4	33.3	.01
	Probation	47.6	2.4	2.4	7.1	40.5	
	CS	16.7	10.4	6.3	4.2	62.5	
Magistrates upper class/working class (218)	Fine	73.8	11.9	2.4	2.4	9.5	.001
	Probation	69.0	7.1	14.3	0.0	9.5	
	CS	39.6	20.8	22.9	4.2	12.5	
Magistrates cold/warm personalities (219)	Fine	57.1	7.1	16.7	7.1	11.9	n.s.
	Probation	50.0	4.8	19.0	11.9	14.3	
	CS	33.3	10.4	31.3	4.2	20.8	
Social Distance from magistrates: distant/close (222)	Fine	54.8	19.0	14.3	9.5	2.4	.01
	Probation	50.0	14.3	19.0	9.5	7.1	
	CS	20.8	33.3	16.7	12.5	16.7	
Court procedure impersonal/personal	Fine	64.3	7.1	11.9	2.4	14.3	.01
	Probation	47.6	2.4	4.8	9.5	35.7	
	CS	22.9	12.5	12.5	8.3	43.8	
Court procedure not understandable/understandable (227)	Fine	42.9	9.5	4.8	7.1	35.7	n.s.
	Probation	42.9	9.5	9.5	4.8	33.3	
	CS	16.7	10.4	14.6	12.5	45.8	
Cannot/can see police as friend (234)	Fine	42.9	2.4	0.5	9.5	35.7	n.s.
	Probation	50.0	0.0	2.4	9.5	38.1	
	CS	50.0	4.2	6.3	8.3	31.3	
Cannot/can see prosecutor as friend (241)	Fine	71.4	7.1	0.0	7.1	14.3	n.s.
	Probation	71.4	9.5	4.8	2.4	11.9	
	CS	54.2	10.4	10.4	2.1	22.9	

a. and b. Footnotes are the same as those for previous item score distribution tables.

Table X-14 Alienation Scale Scores

Measure	Fine	Probation	CS	All Groups
Mean	17.7	19.3	23.5	20.3
Standard Deviation	6.6	8.1	7.7	7.9

Significance Tests

Analysis of Variance: $F(2, 129) = 7.17, p. < .001$. Post-test comparisons significant at $p. < .05$, using the Tukey HSD procedure: Fine vs CS; Prob. vs CS.

Analysis of Covariance: $V(2, 126) = 5.27, p. < .01$. (Covariates: type of sentence expected (121), $F = 2.40, n.s.$; age (259), $F = 2.71, n.s.$; employment stability index (279) $F = 3.50, n.s.$) Adjusted group means: Fine, 17.8; Prob., 19.7; CS, 23.0. Post-test comparisons significant at $p. < .05$ using the Tukey HSD procedure: Fine vs CS.

Analysis of Covariance: $F(2, 125) = 4.03, p. < .05$. (Covariates: type of sentence expected (121), $F = 0.07, n.s.$; perceived sentence severity (123), $F = 2.04, n.s.$; age (259), $F = 3.38, n.s.$; employment stability index (279), $F = 2.35, n.s.$) Adjusted group means: Fine, 18.2; Prob., 19.6; CS, 22.8. Post-test comparisons significant at $p. < .05$ using the Tukey HSD procedure: Fine vs CS.

The outcome is somewhat different, however, for the two scales taken from the literature. Table X-15 gives the group scores for Rotter's (1966) Internal-External (I-E) scale as adapted for this study (See Chapter VI, pp. 186-188 for a description of this scale, Appendix 5 for the items verbatim, and Appendix 8 for the results for each item). It will be seen that, although the group means are in the expected direction with the Fine group scoring the lowest and the CS group the highest means, the results could well have occurred by chance.

Similarly, in Table X-16, the outcome of the Srole anomy scale as modified by Carr (1971) reveals no significant difference between the group means (See Chapter IV, pp. 186-188 for a description of this scale, Appendix 5 for the verbatim items, and Appendix 9 for the results for each item). It may be noted however that the CS group mean is the highest of the three, a result which is in the expected direction.

Table X-15 Rotter^a Internal/External Scale Scores

Measure	Fine	Probation	CS	All Groups
Mean	3.9	4.0	4.3	4.1
Standard Deviation	1.9	2.0	1.4	1.8

a. After Rotter (1966), adapted.

Statistical Analysis

Analysis of Variance: $F = 0.65, 2df, n.s.$

Table X-16 Anomie^u Scale Scores

Measure	Fine	Probation	CS	All Groups
Mean	1.8	1.8	2.3	2.0
Standard Deviation	1.5	1.5	1.3	1.4

a. After Srole (1956) as modified by Carr (1971).

Statistical Analysis

Analysis of Variance: $F = 2.06$, 2df, n.s. ($p. < .13$).

Summary

The results clearly leave one in the position of making only very tentative and qualified statements about the effects of CS on the social attitudes of the subjects. On the positive side, it can be said that in this as in the previous chapters the group scores for all measures, save two, were ordered so that the CS score was the highest. The CS subjects also produced a significantly higher mean score on the Self-Respect scale (Table X-8) and on the Alienation scale (Table X-14). Further, CS was regarded as at least as helpful or 'humane' as probation (Table X-6), a sentence designed primarily for such ends.

But beyond this, the results gave little support to the hypotheses. The Sense of Injustice and Fairness of the System scales suggested that the CS group showed a higher general sense of justice, but these feelings appeared to be due not to the differences in aim or psychological rationale of the three sentences but rather to

differences in sentence severity. Similarly, while the CS subjects were rated as showing the most 'responsible' attitude to their offences, closer examination showed that the differences between the CS and Probation groups were non-significant on these measures.

The results for the series of single-item 'responsibility' measures must be regarded as particularly disappointing, since the reparative aspect of CS - which we argued was its most significant aspect - implies the principle of responsibility for one's acts. The lack of homogeneity in these items strongly suggested, however, that they were simply poor measures.

It will have been noted finally that results in favour of the CS group were conspicuously absent for all of the three short scales taken from the literature (Tables X-12, 15, and 16). The best that could be said was that for the two measures of alienation the results were in the predicted direction with the CS group scoring the highest means. These scales were of course the only ones which were independent of the subject's response to his sentence and to the criminal justice system, and the only measures included in the study bearing directly on the 'social attitudes' which the Wootton Committee hoped to influence.

CHAPTER XI: DISCUSSION

Defence of the General Approach

While CS was widely regarded as representing a 'new approach' or 'new element' in sentencing, its designers, the Wootton Committee, had been given the task of proposing new non-custodial sentences and had deliberately taken a pragmatic approach to sentencing reform. Accordingly, the Committee drew attention mainly to the humanitarian and administrative virtues of CS - its economy, its non-custodial nature, particularly its 'versatility' in meeting the requirements of several sentencing aims - quite conspicuously avoiding any analysis of CS in terms of penal theory. Just as conspicuous, however, was the informally stated hypothesis that CS might improve the attitudes of offenders, specifically their general moral outlook, sense of responsibility and concern for others. We had, in short, predictions without the necessary theoretical support.

In this situation, at least two different types of studies could be planned: a) a theoretical work analyzing CS in terms of penal, sociological, and psychological theory, attempting to determine its aim or aims and to compare its rationale with that of other sentences; or b) an empirical work resting on clearly stated but unsubstantiated assumptions about the justification of requiring offenders to work in the community as a consequence of a crime, and simply testing the

prediction that CS would influence selected moral attitudes in offenders. A third alternative, however, was to conduct a broadly conceived study designed first to explore the justification of CS in theoretical terms, and then to proceed to a limited empirical investigation. While this risked the possibility that neither job would be done well, it seemed easily to be the most appropriate at the present early stage in the development of CS. CS appeared highly provocative theoretically in its own right, and in any event a well designed empirical work would require some analysis of the aims of CS with a view to selecting sentences for comparison with it and choosing control and dependent variables. Unless one were to conduct a purely exploratory study with a view to describing the current administration of CS and its interpretation and reception by offenders - and there were studies of this type already available or planned by the Home Office - one could not adequately test the effectiveness of CS without a proper analysis of its aims. Further, the broad study presented an opportunity to try to demonstrate in a systematic way the close connection between penal theory and the analysis and evaluation of a specific sentence. As such, it would perhaps be the most truly criminological of the alternative types of investigation - a study of the application of philosophical assumptions and social and psychological theory to the justification and evaluation of a new sentence.

The Aims of Community Service

Several factors made the analysis of the aims of CS a difficult and elusive matter - particularly the controversy surrounding the definition of the various sentencing aims and the current ambiguity about the aims of reparation as a criminal sanction. I will briefly review the main arguments leading to my interpretation of the aims of reparative sanction in general and CS in particular, and then consider some of the implications for sentencing practice.

As a first step, interpretations of all of the traditional sentencing aims were provided. Since we would be dealing with moral attitudes, it was considered important particularly to define the retributive and denunciatory aims as narrowly as possible and to distinguish them. It was observed that both of these aims set out to 'do justice' by means of punishment according to deserts, but rested on different notions about why justice should be done. For the retributivist, justice was either an end in itself or a means of limiting the power of sentencers, while for the denunciator doing justice was a means of fostering among offenders or citizens in general an awareness of the principles of justice, since it was assumed that such an awareness would influence their social behaviour. Rehabilitation on the other hand was defined as deterministic in its moral position and designed to influence attitudes and behaviour mainly by changing the offender's environment or by teaching him different responses. Turning to the 'reparative aim', it was argued first that reparation could not be justified as a

criminal sanction merely on the grounds that it had the effect of benefitting individual victims of crime; it had to be shown rather that it contributed to achieving stated aims of the criminal justice system. On this topic, however, the literature provided no clear positions. Reparative sentences seemed indeed ill-suited for use as deterrents since reparation is by definition limited to the amount of harm done, however liberally the harm is assessed. Nor was it rehabilitative in the usual sense since nowhere did it seem to be seriously suggested that making reparation would assist an offender with his personal, social, or economic problems. It was concluded that the predominant aim of 'criminal reparation' was to influence the moral attitudes of offenders, particularly their conception of the principles of justice. It was argued also that the notion of harm to the state was implicit in the concept of crime, and that it was therefore possible logically to order an offender to make reparation to the state in some form for that harm.

The current literature on CS was then explored in some detail in order to determine its predominant aims. All of the traditional sentencing aims were rejected as not important enough to serve as justifying aims. CS did not seem primarily intended to make offenders suffer as the retributive, denunciatory, and deterrent aims required, nor was it rehabilitative in the traditional sense; the prevailing emphasis was rather on its possible effects on the broad social and moral attitudes of offenders, effects which seldom appear in the manuals of the traditional rehabilitator.

Turning to the reparative aspects of CS, close examination of the literature showed that it was the reparative principle represented by CS which was seen predominantly as the feature which distinguished it quite clearly from other sentences and which justified its use. Doing bad was to be balanced by doing good. Offenders were to be held responsible for their offences at least to some degree, and, above all, were to appreciate the connection between the harm caused by their offences and the benefit to the community resulting from their work. CS was to communicate moral values to offenders, specifically an awareness of the principles of justice in social relationships. It was argued that this justification could not be reconciled with the traditional definition of the rehabilitative aim. It was therefore concluded that CS was reparative in aim within the terms of the previously postulated definition of that aim and indeed that the analysis of the aims of CS had served to support that definition. Here was a sentence which was clearly intended to be reparative in its effects and yet the purpose of the reparative behaviour was not the material benefit itself to the state-as-victim but rather the teaching of the moral principles implied.

The predictions about the effects of reparative sentences in general and CS in particular were generally not supported, however, by adequate discussions of the relevant social and psychological theory. This study therefore tried to provide a plausible theoretical argument. It was first argued in terms of broad social theory that the overt

maintenance of the principles of justice in any society is essential to co-operative relationships in the society, specifically to the maintenance of law-abiding behaviour. Proceeding to the individual psychological level, it was pointed out that several psychological theories predict a relationship between just behaviour, including reparative behaviour, and co-operative social attitudes.

The various sentencing aims were then compared in terms of several attributes in order to analyze the significance of CS for sentencing theory. It was concluded that the advent of CS was theoretically significant for several reasons: It contributed to the clarification of the aims of criminal reparation, supporting the interpretation of reparation as a means of expressing and conveying the concept of justice. This, in turn, supported the denunciator's insistence on the maintenance of the principles of justice in sentencing. CS was an expression of his beliefs and permitted a test of his hypotheses, a test of what Allen (1964) called the 'subtle processes' involved in criminal procedure. And for the rehabilitators it seemed clear that the emphasis of CS on the offender's moral responsibilities and on his redemption or 'reconciliation with the community' represented a radical (though not always acknowledged) departure from traditional deterministic rehabilitative theory.

The interpretation of CS as predominantly reparative in aim and the definition of that aim given above have several implications for penal practice. Some of these will be discussed briefly below,

taking first those which apply generally to reparative sanctions and then those having to do with the administration of CS in particular.

- 1) Role of the Victim. Reparation to victims as a means of doing justice for the good of society implies that the individual victim makes his claim as a citizen, i.e., as a representative of all citizens. The injured citizen is the injured state. The harm to him is of interest to the criminal court because it represents a violation of the right of all citizens to just or non-exploitive treatment at the hands of others, to the extent that such rights are embodied in the criminal law. The victim, in short, does not demand justice in his own right but in his role as citizen.
- 2) Choice of the Reparative Sanction. Since sentences which are reparative in aim have the same ultimate 'system aim' as all criminal sanctions, their choice rests on the same considerations affecting the choice of any sentence - for example, whether the offender requires control, whether he will co-operate or has the means to co-operate with the sentence, whether the 'target of influence' is the offender or the public, and, above all, what social-psychological rationale the court considers appropriate in the circumstances. This means, of course, that the court may refuse to do

- justice by means of reparation if the cost-benefit balance in terms of crime control is considered unsatisfactory. It is important to note, particularly, that what it does not need to consider as such (subject to what is said presently about the assessment of quantum) is the 'interests of the victim'. Nor can the court reject reparation because 'the victim has his remedy in civil court'; this would imply that the court's aim in ordering reparation would have been to protect the victim's interests. As indicated above, for the criminal court the interests of the state and the victim are in principle one and the same. The primary conflict is not between the interests of the various parties, as it would be in a civil action, but between different methods of crime control.
- 3) The Limits of the Reparative Sanction. Like retribution and denunciation, reparative sentences are self-limiting - limited of course by the assessed amount of harm done. But also, like all sentencing aims, they are limited by their expected effectiveness for crime control and by political, humanitarian, and economic considerations. Doing justice by reparative means is not justified if it is not likely to work, if it turns the offender into a 'bonded citizen' to an unreasonable degree, and if the costs entailed in its administration are not warranted by the benefits.

- 4) Enforcement of Compensation Orders. It is frequently said that the criminal court should not put itself in the role of a 'debt collection agency' and thus perhaps jeopardize or compromise its effectiveness in its basic task of protecting society. This argument implies that reparation is regarded as a civil remedy; i.e., that it is intended to help the victim recover his loss, and that the criminal court should have none of this. Given that assumption, it would indeed follow that the more the criminal court invests in offering this remedy the more it detracts from its goal of maintaining the criminal law, and it may well argue that the enforcement of a reparation order should be left to the individual victim via civil court. This indeed is the current practice in Canada. If, however, reparation is ordered as a criminal sanction, it follows that the state should enforce the orders because, by definition, it is in its own interests to do so.
- 5) Assessment of Quantum. Determining the amount of compensation to be ordered (the duration of CS orders is discussed separately below) presents no less difficulty for the criminal court than it does for the civil. Amounts may well be disputed, third parties may make claims, and material values must often be attached to intangible and remote harm. The

point to be made here is, however, that the difference in the purpose of reparative orders in each court implies some differences in the problems faced. In one sense the criminal court's task is more difficult. As it is often pointed out, the criminal court must not only consider the competing claims of other methods of crime control (other sentencing aims) but also the political, humanitarian, and economic limits within which it must operate. It cannot, for example, order 'costs' to cover what may rapidly become a very expensive business.

In another sense, the criminal court's task is easier. Since its aim in ordering reparation is simply to express and communicate the notion of justice and not to protect the interests of the individual victim, it may choose merely to do 'rough justice', 'partial justice', or even 'token justice', so long as the concept is adequately expressed. The amount of reparation ordered, whatever form it takes, should of course by definition have some reasonable relationship with the amount of harm done; otherwise the court would not succeed in conveying the concept of justice. Further, as indicated just above, the amount ordered cannot exceed the harm done since this also would contradict the justice aim. But, so long as reasons for falling short of the 'exact' amount are clearly stated, the principles of justice may still be adequately conveyed to the offender

or the public. It bears noting here, however, that what the criminal court cannot say, as it often does at present, is that a given case 'belongs properly in the civil court' because that forum 'has the necessary expertise and resources' to deal with difficult problems of assessment of quantum and liability. Such a statement would imply that reparation was a civil remedy offered in the criminal court only in cases where no practical difficulties were raised. Whether or not the victim has access to the civil process, or uses it, is in principle of no concern to the criminal court.

- 6) Duration of the Community Service Sentence. The interpretation of CS as predominantly reparative in aim also implies that the duration of the CS order should have some reasonable relationship with the 'seriousness' or harmfulness of the offence. But how is one to judge the extent of injustice or even 'moral outrage' to society a given crime represents? The problem is of course hardly new. As pointed out in Chapter II, retributivists and denunciators are repeatedly criticized for assuming that a punitive tariff can be constructed.

Recently Pease (1978) has suggested that the 'tariff' for determining the severity of CS sentences use prison sentences as a guide. Thus, for example, a CS order for 100 hours or

less would be regarded as equivalent to a non-custodial sentence, followed by 35 hours for each three months of imprisonment to the current maximum CS sentence of 240 hours, which would be equivalent to a prison sentence of twelve months or more. While this proposal represents an attempt to introduce some consistency in the application of orders, it is rather arbitrarily based on current prison sentencing practice in relation to current CS sentencing practice. But the more serious criticism is that to make sense it must assume that the aims of CS and prison are the same, specifically that current prison sentences are retributive (at least in the limiting sense) or denunciatory in aim. It is more likely that the relatively short prison sentences under consideration are mainly deterrent in aim, making them inappropriate guides for a sentence designed to 'do justice'. It might be observed here that the Pease formula implies that serving a CS order - during leisure time and perhaps conveniently located and of a satisfying nature - for one eight-hour day a week for about five months is regarded as equivalent to a six-month prison term! These hardly make sense as moral equivalents.

The problem of establishing a tariff for CS is thus extremely complex. Other sentences, as pointed out above, are poor guides because either they differ from CS in aim or are at

least ambiguous in aim; and, for that matter, CS itself is not purely reparative in aim. Even if purely retributive or denunciatory sentences could be found, it is clearly difficult to compare the 'severity' of punitive and reparative sanctions. We need only recall here the difficulties encountered in the attempt to control for the subjects' perceptions of the severity of their sentences. One must, it would seem, start afresh in the construction of a CS tariff.

The Effectiveness of Community Service

The results of the study may be briefly summarized as follows:

- 1) Consistent with other studies of a descriptive type, the CS group easily appeared the most positive of the three groups in attitudes to the sentences. The CS subjects did not show the resentment or cynicism frequently found in the fined subjects or the passivity, guardedness, or ambivalence often shown by the probationers. They tended more often to be positive, confident, and sometimes even enthusiastic in their response to general open-ended questions about their sentence.
- 2) These impressions were generally reflected in the attitude scales when the scores were not adjusted for the effects of extraneous variables. Of the 19 scales where CS was

predicted to have positive effects, the CS group produced the highest score on 17 of them. The CS group mean was significantly (at the .05 level or better) higher statistically than that of either the Probation or the Fine group on seven of the scales, and from the Fine group alone on an additional eight scales.

- 3) When the group means were adjusted to take the various relevant extraneous variables into account - particularly the subjects' perceptions of the severity of their sentences - the differences between the means were usually substantially reduced. The CS group mean did remain significantly higher than that of the Fine group on 11 of the 19 scales but significantly higher than that of the Probation on only four of the scales. The adjusted group means remained in the expected direction, however, on all of the 17 scales as they were for the unadjusted means.
- 4) The differences between the groups means were a) greatest (and usually significant) for those measures pertaining to the sentence, b) smaller (and only occasionally significant) for the scales about attitudes to the personnel of the justice system and the court procedure, c) still smaller (and seldom significant) for the social attitudes scales constructed from the attitudes to the system and attitudes to the sentence scales, and d) virtually absent for the

three short social attitude scales taken from the literature. The more removed the 'attitudinal object' from the sentence itself and the more general the attitude, the weaker the effect of the sentences.

- 5) Quite apart from the positive or negative direction of the subjects' attitudes to their sentences, there was good evidence that the CS subjects tended to accept their sentence for different reasons than the other subjects accepted theirs. As predicted, the CS subjects tended to emphasize the principle they took their sentence to represent rather than to speak in terms of their own interests, e.g., the lenience of the sentence. Consistent with this emphasis on rational principle, the CS group appeared to be more decisively positive in the evaluation of their sentence rather than in their feelings about it. Further, there was evidence that they perceived the reparative aspect of their sentence and the moral principles it implied. About half of them, when forced to choose between the punitive, rehabilitative, and reparative aims for their sentence, selected the reparative aim despite the fact that CS is frequently interpreted in rehabilitative terms in official pronouncements and is administered by the probation service. And when asked to predict its effects on their future attitudes and behaviour, they did not see it as any more likely than the fine to deter them from committing

further offences, nor any more likely than probation to foster insight into their personal problems. They did see it, however, as contributing to their understanding of others and (probably) helping them toward a sense of redemption and a sense of integration with others.

- 6) The 'moral effects' of CS were much less evident, however, in the results for the broader social attitude scales. An attempt to demonstrate that the CS subjects would show a greater acceptance of their conviction and a better sense of responsibility for their offence - less need, for example, to rationalize their involvement - resulted in no convincing differences between the groups, at least between the CS and Probation groups. Nor were there statistically significant differences found between the groups in the Sense of Justice or Fairness of the System scales when the perceived severity of sentence factor was taken into account.

These results are not easy to interpret. A critic might argue that the fact that the CS mean scores are consistently higher than those of the other groups could be due a) to some extent to the (uncontrolled) Hawthorne effect - the sheer novelty of CS - and b) perhaps also to certain residual selection biases taking place at the time of sentencing, factors not taken into account by one or more

of the variables which were controlled. Further, the CS mean scores differed significantly most frequently from those of the Fine group and only occasionally from those of the Probation group. This would suggest that, as often noted in the description of the results, the sharply negative feelings of the Fine group accounted for more of the differences between the groups than the positive attitudes of the CS group. This would show either that the fine is the wrong way to change the attitudes measured or that, if CS is the right way, it is perhaps only marginally more effective for that purpose than probation.

The more positive interpretation - and the one preferred here - is that, all things considered, the results provide reasonable support for the interpretation of CS presented, and for the experimental hypotheses. It must be noted first that the CS group was much more positive than the other groups about their sentence beyond, one would think, what could reasonably be attributed to the Hawthorne effect or to sentence selection factors. Further, the fact that the CS subjects tended to perceive the reparative principle implicit in CS, to stress it in their remarks in a positive way, and to predict that CS would positively affect their awareness of, or integration with, others, all suggest a degree of moral 'clout' to their sentence.

Turning, however, to the failure of CS to produce the predicted scores on many of the measures, there are a number of possible reasons. First, of course, one could argue that the reparative aspect of CS is much weaker than we held it to be. Some doubt that the

reparative aspect of CS is psychologically meaningful for offenders, and in general doubt that the concept of reparation to the state for the harm implicit in any crime is true in anything but a metaphorical sense. The response to this would require a review of the theoretical arguments. Further, however, research of an exploratory sort is required to examine in much more depth how offenders interpret the purposes of their sentences, what determines the way they interpret them, how ambiguous the aims of sentences are, and how their interpretations are related to their attitudes.

Secondly, there is no doubt that CS has several possible aims, and while it was argued that a reasonable proportion of the CS subjects perceived the predominant aim of their sentence as reparation, an equivalent number did not (Tables VIII - 1 and 2). It was pointed out also (Chapter II) that despite the fact that the Wootton Committee and most commentators saw CS as 'a new sentence standing in its own right', many administrators tended to interpret CS as a 'multiple-aim' sentence or even, at least implicitly, as predominantly a rehabilitative sentence. It must be concluded that the predominant aim of CS would be anything but clear to many CS subjects. And, if the cognitive-developmental theorists are right in saying that a growth in the awareness of moral principles as guides to behaviour is fostered if the individual perceives the conflict of principles and participates in resolving such conflicts (Chapter III), then any ambiguity in interpreting the reparative aspect of CS would reduce its effectiveness

in changing offenders' moral attitudes. To be maximally effective for this purpose, all administrators (including of course sentencers) should consistently and clearly point out to the offender the connection between the harmfulness to society of the offence and the opportunity CS affords him to assume his responsibility to repair the harm. He must, if CS is to properly express the reparative aim, not only comply with the obligation imposed upon him but perceive it as a moral obligation, as a means of redemption.

It would not seem to be difficult to test the effect the offender's interpretation of the aims of his sentence has upon his attitudes. One method would be to interpret the same type of sentence in two different ways. Thus, CS could be interpreted as reparative for one group and as rehabilitative for another. The payment of money to the state could be defined, for one group, as a punitive fine for the purpose of deterrence and, for another group, as compensation to the state for the 'costs' to the state resulting from the crime, i.e., as a means of atonement for the violation of the law in itself. Such studies might endeavour to 'bring home' to the offenders in the 'reparation groups' the reparative nature of their sentence by allowing them as much participation as possible in the 'negotiation' of appropriate work or money payment.

Another possibility is that it is not so much merely the reparative rationale underlying CS which accounts for any effect it may have on moral attitudes but the 'constructive' or altruistic form

of reparation CS exemplifies, the powerful symbolism it sometimes expresses. This hypothesis might be tested by comparing the effects of different forms of reparative sentences, e.g., compensation orders and CS orders.

The failure to find stronger support for the hypotheses - particularly to demonstrate differences between the groups in their broader or 'deeper' social and moral attitudes - might also be attributed to technical defects in the design of the study and in data collection procedures. First, most of the measures of these attitudes were based on items selected from scales about the subjects' attitudes to their sentence and to the system personnel. The items were chosen on rational grounds supported by statistical evidence of their homogeneity. The resulting social attitude scales proved, however, to be only moderately homogenous (Table VI-1), raising a question as to their validity. The measures thus may have been too crude for the purpose intended. We were, after all, attempting to show rather subtle differences in attitudes, to distinguish the sense of fear or apprehension associated with the fine as a deterrent, and the sense of security and confidence probation aims to foster, from the sense of responsibility, redemption, or integration with others hypothetically resulting from CS. More elaborate scale construction procedures, perhaps using factor analytic techniques and based on larger numbers of attitude scale items, might well produce more valid measures.

As regards the control of extraneous variables, in general the study demonstrated the many problems associated with an effort to compare sentences which are intended, to some degree, for different sorts of offenders. It will be recalled that it was difficult to obtain comparable subjects for each group by means of restriction of the sample, and considerable work was left to statistical procedures. The steps taken were quite painstaking, but there remains the possibility that the groups differed in ways which would suppress the differences in attitudes between the groups. It will be recalled specifically that the Probation subjects were selected by their probation officers since this was the only feasible way to proceed within the constraints of this study. Despite the efforts to prevent a resulting selection bias, the effect of this procedure might have been to raise the scores of the Probation group. Short of random sentencing procedures, the solution to such control problems would be the use of a longitudinal design, or a cross-sectional design based on stricter selection criteria and, preferably, matched individuals rather than groups.

Concluding Remarks

This study has been an attempt to state, develop, and test a point of view about CS. Interpreted as predominantly reparative in aim, CS was held to be a representative of, and perhaps a contributor toward, a substantial shift in penal theory and practice - a trend toward an emphasis on the moral responsibility of offenders. The analysis was held to support a postulated theory of reparative sanctions and

specifically to support the conception of reparation as a criminal sanction at the status of a sentencing aim usefully distinguished from other sentencing aims. It was also argued that CS was psychologically 'rich', that it was in the mainstream of recent developments in social-psychological theory in its emphasis on the cognitive aspects of behaviour and the importance of the norm of justice in social relationships.

If the interpretation is accepted, the future of CS would seem assured, since it speaks to a central problem in sentencing. It might help to render punishment according to deserts obsolete, contribute to a reappraisal of the social-psychological basis of sentencing, and lead to more selective use of the traditional sentencing aims. At least the study might have demonstrated that CS deserves to be taken seriously not only by the pragmatic correctional administrator but also by the sentencing theorist.

Whether it deserves to be taken seriously as a means of reforming offenders is at this point much less clear. The results were considered at least encouraging, particularly considering the many difficulties encountered in the attempt to test such a complex sentence. In any event, it should be remembered that this was a test of only certain effects of CS, effects on offenders. If the theory is correct - if CS is predominantly reparative in aim and we have defined that aim correctly - the effects of CS must be measured not only by what it says to offenders, but by what it says to us all.

APPENDIX 1: MORAL DEVELOPMENT LEVEL ASSESSMENT PROCEDURE

In his investigation of the development of conscience, Stephenson (1966) presented his subjects with a series of questions in individual interviews; e.g.: 'Do you think it ought to be every man for himself in this world?'; 'Tell me what are the worst things a person can do?'; 'Why do you generally keep the law?'; 'Why do you think most people keep the law?'; 'What kind of person do you like best?'. In each case the question was followed by probing questions to determine the reasons for the subject's response. Stephenson states that 'Each question was [then] assessed on a six point scale, varying from "very self-centered, egotistical" ("0"), to "definitely altruistic, considerate of others" ("5"). At one extreme is the individual for whom duty and obligation come before all self-interest. At the other is the individual whose obligations do not extend beyond himself' (Stephenson, 1966, p. 16).

For the present research, a selection of items was made from Stephenson's questionnaire, and adapted to the present purpose. The questions were as follows:

- a. What's the worst thing about getting in trouble with the law? The subject might indicate here that 'getting caught' and having to pay the penalty was his major concern. Alternatively, he might speak of the effect of his behaviour upon his family or more generally upon his reputation in the community. Beyond this he might remark that 'there's no sense in breaking the law since everyone has to get

along', or 'it's just wrong'.

- b. Why do you generally keep to the law? The essential difference to be determined here was whether the subject emphasized the fear of consequences almost in a physical way on the one hand, or moral precept (e.g., 'duty to society') on the other. Between these extremes, the subject might be concerned about the social repercussions of his offence. Within this middle group it was sometimes possible to make a distinction between those offenders who emphasized the personal shame or effect upon their reputation and those who emphasized the effects of the offence upon their family. The former response was taken to indicate a slightly higher level of principle.
- c. How do you generally feel after you do something wrong to others in your private life (not necessarily a crime?) Here, of course, the presence (or absence) of guilt and concern for the individual who had been harmed was the focus of attention.
- d. What do you usually do if you have done someone harm? Why? This was an extension of the previous question. Of interest was whether the subject showed any concern about atoning in some way for the wrong-doing and, if so, what reasons he gave. Did he emphasize reciprocity on a material level as a quick and complete answer to his responsibility, or did he seem to take material reciprocity for granted and assume that something more than this was required to reinstate his relationship with the wronged person?

- e. If someone does you a wrong, what are your feelings and what do you do? Did the subject simply want to 'get his own back' in a physical or material way? Was he concerned about the implications of the wrong-doing upon his relationship with the offender? Or did he answer more generally remarking, for example, that he had 'misjudged the character of a friend'?

On the basis of the reasons he gave to explain or justify his replies, each subject was rated on a four point scale. At the very low extreme the individual may be described as 'amoral' or markedly lacking in awareness or concern about the effect of his actions upon others. He tends to be hedonistic, exploitive, opportunistic, ego-centric, and lacking a sense of duty or obligation to others. The 'psychopathic personality' is included in this group. Moral or legal rules are regarded, in effect, as obstacles to be gotten 'round or manipulated as self-interest demands. The obligation to atone or repay for wrong-doing seems to be conceived simply on a material or 'fix-it' level.

At the opposite extreme are those who seem to show awareness of the importance of moral principle. For practical purposes several commonly-described personality types are grouped here - the democratic, legalistic, 'self-actualizing', principled, and the like. The law is seen as (at least an attempt toward) a rational approach to ordering social behaviour. The obligation to make material reparation appears to be taken for granted but there is a sense that more than this is involved, an awareness of having violated one's sense of identity or moral character. For the present purpose, however,

no lofty (and increasingly controversial) conceptions of ideal personality types were involved. It was sufficient to identify simply a relatively high sense of awareness of moral issues.

The two middle categories are much more difficult to define. They represent degrees of confidence in scoring the subject in one direction or the other. At both levels the responses to the questions tend to be conventional, and the distinction between the moderately low and moderately high group tends to rest on how negative or positive the subject's sense of obligation to others seems to be. At the lower level there appears a wary and defensive posture and a highly conditional attitude toward reciprocity: e.g., "I'll do anything for a friend unless he crosses me". The individual appears submerged in the group, and appears to co-operate because the group is powerful and conformity is safest. At the higher level there is a greater sense of individual identity and a concern for reputation, and for the effect of wrong-doing on others; a conception of the 'good citizen'. Reparation appears to be regarded more as a positive obligation than simply a practical necessity. Still, the source of authority is largely external; the law is to be obeyed because it is conventionally accepted.

APPENDIX 2: A NOTE ON THE SELF REPORT AS A SOURCE
OF CRIMINAL RECORD DATA

It proved inexpedient and expensive to obtain criminal record data from official sources. There are several agencies which maintain records on adult and/or juvenile offenders; specifically, the central Criminal Records Office (CRO) maintained at New Scotland Yard, regional criminal records offices, local police offices, and, in addition for juveniles, the offices of the Department of Health and Social Security (Walker, 1968, 1971; Steer, 1973). The latter three sources could not be considered on practical grounds; even assuming that permission could be obtained to examine the records, the catchment area of the research spanned several jurisdictions, and time and expense factors prohibited such an effort. As regards obtaining the information from the CRO, as the text indicates, this would be too expensive. But in any event for several reasons the self-report data seemed adequate to the task required of it. These are discussed below.

1. Self-report data concerning criminal record can be expected to be reasonably accurate. Indirect support for this statement may be found in studies of 'hidden' delinquency or crime. The subject is asked to reveal the extent, type, or quality of past delinquent or criminal behaviour whether or not it was officially recorded. Much of the information thus in fact may be incriminating, and there are problems of definition or interpretation of the behaviour in terms of offence categories. Such problems have given rise to a certain degree of controversy about the reliability of self-report

data of this type, and a search for methods designed to reduce misinterpretation, concealment or 'exaggeration' (see Hood and Sparks, 1970, for a review). Even given the risks for the subject, however, investigators invariably report that subjects appear to take the exercise seriously (Hood and Sparks, 1970, p. 67). Further, when the self-report data are compared with official records there is little or no evidence of concealment of recorded offences (Erickson and Empey, 1963; Empey and Erickson, 1966). The present study required the subject to reveal only his prior convictions and prison sentences, information which was already officially known and unambiguous. In comparison with hidden crime studies there would arguably be little reason for exaggeration or concealment and little room for misinterpretation.

More direct evidence of the reliability of the self-report method comes from those studies which ask the subject specifically about his previous convictions. Willett (1973), in his investigation of the attitudes of motoring offenders, reported that while he was suspicious about the frankness of his subjects concerning their admission of previous motoring accidents, they appeared candid about previous convictions. The self-report data was 'almost exactly the same' as that supplied by the police. Recently West and Farrington (1977) also reported that only six of 101 young offenders with convictions denied any previous record, while 26 concealed at least one previous conviction. In all, 19.1% of the convictions were not mentioned. In some cases, however, a conviction might be only partly concealed, and in general the tendency to minimize was greater

a) where there were multiple convictions, b) where the subject simply failed to remember, or c) where he perceived an offence to be insignificant. There was also some degree of 'exaggeration' - 21 subjects described 30 convictions which were not in fact recorded in the CRO. Only 2 subjects, however, were considered to have clearly and deliberately exaggerated. These investigators conclude that their subjects were 'for the most part truthful' (p. 41) and 'surprisingly frank' (p. 42) in their statements, and this even though it was felt that the subjects had no reason to think that the researchers might in any event have access to official records.

But while these studies support the validity of a self-report measure of previous convictions, they do suggest that the reliability of the subject's answers may be affected by several factors: a) the method of data collection (interview vs self-completed questionnaire); b) the nature of the offences involved (sexual, violent, serious, etc.); c) the sheer number of convictions; c) the time period over which the offences occurred; e) the subject's attitude toward the investigator or toward the research; and f) his assumption as to whether the researcher has access to official records. Not all of these are relevant to the present study; specifically: a) the subject was not asked here to describe or reveal his offences, only his convictions; b) although a 'total recall of criminality' cannot be expected beyond a limited period (Hood and Sparks, 1970, p. 69), the accurate recall simply of convictions or prison sentences can be expected to be quite long; and c) although error in recall increases with rising numbers of convictions, the analysis in this study

combines subjects with five or more previous convictions and three or more previous prison sentences.

Nevertheless, an effort was made in the interview to win the trust of the subjects and to foster a positive attitude to the research. The 'personal' questions, including those concerning previous record, were placed near the end of the questionnaire when rapport could be expected to be better established. Also, before asking the questions, the subjects were again assured of the confidentiality of the research and the care with which the data were to be handled. The interview method made it possible, further, to reduce any apparent apprehension on the subjects' part and any misunderstanding of questions. Many subjects might also have assumed that I had access in any event to official records; a number, in fact, spontaneously invited me to contact their probation officer for the data. Like other investigators, only very occasionally did I suspect that the subject might be minimizing or 'exaggerating' his record. The great majority seemed quite open and diligent about the task.

2. Official records also have limitations as measures of criminality. The CRO maintains reliable data on certain categories of offences; i.e., indictable and 'quasi-indictable' offences committed by adults, and some of the more serious juvenile offences (Walker, 1968, 1971). A study by Steer (1973), based upon figures for the years 1961-63, found however that although 99% of all indictable offences were recorded, the proportion reported for non-indictable standard-list offences dropped to 77%, and for non-standard-list

offences to 14%. Most of the latter pertain to offences (e.g., motoring and other regulatory offences) which are in any event also excluded from the self-report measure adopted in this study, but by no means all; e.g., resisting a constable, common assault, etc. . Steer (1973) also found that among the variables tending to reduce the proportion recorded were the fact that the offence led to a non-custodial sentence and the fact that the offender had no previous record. Since the present study is concerned with offenders considered suitable for non-custodial sentences, many of whom might be convicted of relatively minor offences, the official records would arguably be a particularly unreliable source of data.

In view of the fact that the average age of the subjects was 22 years (See Table VII-11), the limited reporting of juvenile 'convictions' must also be considered a weakness of the CRO records as a source of data for this study. And not only is the juvenile coverage limited but it appears that it is uneven. In the London area the CRO is the local record for the metropolitan police district, and as such contains relatively comprehensive reporting of juvenile offences (Walker, 1971), but since only some of the subjects are selected from this area, the accuracy of the data would vary from group to group, and a potential bias would be introduced.

3. A relatively rough measure of criminality is adequate for control purposes provided the error can be assumed to be constant for all groups. While it is of course desirable that all measures be as accurate as possible, it should be remembered that the measure

of criminality obtained here was required for purposes of control and not as a dependent variable. Further, the design required only that the groups rather than individuals be matched, so far as possible, on the variable. For these reasons, a rough measure of criminality was deemed adequate provided any error could be assumed to be constant for the three groups.

In this regard, there would seem to be no obvious reason to expect that any of the groups would be more or less honest or blessed with better memories than the others. Two possible queries on this point might, however, be raised: First, it might be suggested that, since the subjects in the different groups were approached in different ways and interviewed in different places, they might have differed in their assumptions as to whether this investigator had access to official records. The interview arrangements for the Probation and CS groups were made through the probation service while the Fined subjects were approached 'cold' at their own homes. The possibility of a bias due to such a factor, however, would seem unlikely. The Fine group was fully informed that I had been given access to the Court Register, and it is doubtful that they would make assumptions any different from those of the other groups. Certainly the subjects in none of the groups raised the matter.

The second query is whether the groups might not differ in their 'openness' (vs 'defensiveness') due to differences in their general attitudes to their sentence and hence to the research endeavour. The study, indeed, predicts such a difference. The chief answer here would

be that there would appear to be little room for subjective interpretation of the questions, giving scope for the effect of general attitudes. The subject is not, after all, asked to give accounts or descriptions of previous offences, but rather for quite 'objective' data.

APPENDIX 3: THE SEMANTIC DIFFERENTIAL

There would seem little reason to dispute the claim that the Semantic Differential (SD), since it was first published in 1957, has 'gradually captured the imagination of psychologists' and that in recent years there has been a 'minor explosion' of studies involving its use (Osgood, Suci, and Tannenbaum, 1957; Snider and Osgood, 1969; Kerlinger, 1969). It was originally developed in the context of measuring the psychological meaning of things (concepts, ideas, persons, objects, etc.). Osgood et al (1957) postulated that in order to describe what an object means we function within a more or less shared 'semantic space' - a cluster of interacting descriptive dimensions in terms of which any object may be located. Thus the object 'flower pot' may be described as high in beauty over ugliness, warm rather than cool, still rather than moving, perhaps more strong than weak, and neither up nor down. The SD thus consists of a series of scales bounded by adjectives which are polar opposites. The task of the subject is to rate a given object on each of the scales.

By factor analysis of the ratings of a large number of objects in terms of a large number of adjective scales, Osgood was able to isolate three orthogonal dimensions which consistently accounted for most of the variation. These were labelled Evaluation (E), Potency (P), and Activity (A). In the process, the factorial composition (or 'loading') of a large number of adjective-pairs was determined. From these, a limited number of items with the highest

factor loadings could be selected to form generalized scales to investigate the meaning of any object among widely differing populations; in short, a research instrument of potentially extremely broad application in the social sciences had been invented. Further, for the examination of relatively specific objects within a limited population, the investigator could select, from the pool of items of known factorial composition, those which appeared the most appropriate and unambiguous.

While the SD can thus be interpreted narrowly as a generalized 'test' where the chief goal of the research is to obtain measures on the EPA dimensions (e.g. Heise, 1970), the authors state that it is better described as '...a generalized technique of measurement which must be adapted to the requirements of each research problem to which it is applied' (Osgood, et al, 1957, p. 76). They point out that the factorial composition of a specific adjective-pair may vary depending upon the specific object and the specific context in which it is applied. As Heise (1970) puts it '...the words in a scale may take on special meanings, and thus the scale is literally a different one than previously studied' (p. 239); the 'semantic stability' of an item may be weak. Thus (and perhaps as one might expect) the 'beautiful-ugly' and 'rugged-delicate' scales were found to be largely irrelevant as a measure of the concept of capital punishment (Brinton, 1969). Other specific applications have been found to produce factors related to the subject matter of the study rather than to the EPA dimensions arising from more general studies (Moser

and Kalton, 1971). Further, specific applications often require the use of argot or colloquial expressions the factor loading of which is just not available.

In view of these considerations the SD has indeed been interpreted broadly and applied in a wide variety of research contexts (Snider and Osgood, 1969). Its application to attitude measurement was foreseen by its authors early in its development, and in fact the technique was considered to be an extension of the earlier attempts of Remmers in the 1930's to develop generalized attitude scales. The notion of an attitude as 'internal mediational activity' which could be described in terms of bi-polar favourable-unfavourable dimensions was seen as clearly consistent with the approach of Osgood, et al (1957) to the more abstract concept of meaning. The scales could test the primary attributes of an attitude: a) its direction (e.g. 'good-bad'), b) its intensity (by means of the 'slightly-somewhat-extremely' scale values), and c) its undimensionality (representative adjective items being selected by correlational techniques). Attitude could be seen as more or less synonymous with the evaluative factor, which emerged so consistently in the analysis of meaning.

Osgood thus tended to restrict the concept of attitude to its evaluative component. It was observed however a) that the evaluative factor, depending upon the concept being judged, might interact with other basic factors, and b) that when the potency and activity factors were allowed to 'enrich' the score, a closer relationship between the (total) score and the subject's actual behaviour was found.

In any event such a restricted concept of attitude was not in keeping with the multi-component interpretation of attitudes most theorists now accept, and it was soon argued that the SD could be applied to attitude measurement in a more robust way. The EPA factor structure of the SD was indeed manifestly consistent, respectively, with the cognitive, emotional, and conative components of attitude. Thus Heise (1970) suggests that Osgood's identification of attitude with the evaluative dimension was simply an error, and points out that the traditional attitude scales (e.g. the Bogardus Social Distance Scale, the F Scale, etc.) typically contain items that are clearly 'loaded' on the potency and activity factors.

It remains to consider some of the more technical aspects of the SD technique - its construction, administration and scoring.

These will be briefly listed:

- a) It is just as difficult to determine the validity of the SD as a measure of attitudes as it is for any attitude measure.¹ Its construct validity was hopefully adequately defended in the previous paragraphs. As to its pragmatic or criterion validity,² there is evidence i) that SD measurement techniques have been found useful in a wide variety of projects (see Snider and Osgood,

1. The validity of the SD as a measure of meaning is controversial in the field of psycholinguistics, but that is not directly relevant here.
2. A test is said to have 'pragmatic' or 'criterion' validity if it is useful for practical purposes, e.g., its ability to predict performance ('predictive validity') or to measure performance as accurately as some other indicator of accepted validity ('concurrent validity').

1969) and ii) that SD scores tend to correlate highly with those obtained by more conventional attitude scales (Osgood, et al, 1957; Heise, 1970; Snider and Osgood, 1969; Brinton, 1969).

Mention should be made here of the fact that the evaluative factor loadings of SD scales correlate highly with the social desirability ratings of the adjectives describing the scales (Ford and Meisels, 1969). In fact, evaluation is a matter of applying social standards, and so the finding is hardly surprising. This means that the social desirability aspect of an evaluative SD response is fairly evident to the subject. In applications of the SD, therefore, care needs to be taken to account for or control for such a potential bias (Heise, 1970). In the present study, however, it may be noted first that the subject is not asked to rate himself - an 'object' which has been found to be particularly subject to social desirability responses. Further, the interview procedure used permitted one to reassure the subject as regards the confidential nature of the enquiry. Finally, the purpose of comparative research is, of course, simply to demonstrate a difference in responses between groups, and response biases are controlled if they can be assumed to be constant for all groups. In any event, by no means all responses elicited are evaluative ones; many concern feelings or preferences and they 'load on' other factors (roughly potency and activity, respectively) which are not correlated with social desirability (Ford and Meisels, 1969).

- b) The reliability of the SD as an attitude measure is reported as high (Osgood, et al, 1957; Snider and Osgood, 1969), particularly when applied to groups (Heise, 1970).
- c) The selection of bi-polar adjective scales for the purpose of measuring attitudes toward objects of specific interest in a research project can employ procedures varying in level of sophistication. Data may be collected on a large pool of items with a view to selection by means of correlational techniques, but a typical procedure is to select descriptive adjectives on rational, theoretical or a priori grounds and limited piloting of items (Moser and Kalton, 1972; Oppenheim, 1966).
- d) Scoring procedures can also apply more or less simple statistical techniques, depending upon the level of reliability and validity required. The SD is essentially a summated rating scale; a 'global' score may be calculated by simple summation of item scores or by more elaborate 'weighting' of items in accord with the strength of relationship between each item and the object concerned. Alternatively, item mean scores for individuals or groups may be calculated. Factor analysis, cluster analysis or other correlational techniques may be applied at a later stage if desired.
- e) The SD has several administrative virtues: i) The bi-polar form of each 'question' presents the subject with a relatively simple task. This is of course particularly desirable for research involving subjects with doubtful or below average

verbal skills. ii) The face validity of the format seems to be quite satisfactory, with the subjects readily apprehending the nature of their task. iii) Both the number of items and the number of scale intervals per item may be varied depending upon the research task. Thus as few as four and as many as ten or more items may be applied to an attitudinal object, and from three to eleven or more intervals within each item may be used. iv) Scale items may be completed very rapidly, either by the subject or by the investigator.

APPENDIX 4: PEARSON ITEM/TEST COEFFICIENTS

Feelings After Sentence Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
128	.89	.78	.68	.84
129	.55	.77	.72	.57
130	.79	.69	.76	.77
131	.70	.78	.68	.75
132	.72	.71	.75	.75

Attitude Toward Sentence Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
133	.63	.77	.83	.72
134	.84	.87	.70	.85
135	.75	.60	.74	.71
136	.77	.72	.77	.76
137	.47	.67	.29	.58

Attitude Toward Magistrates Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
212	.77	.67	.74	.74
213	.56	.54	.57	.56
214	.78	.68	.74	.74
215	.50	.27	.54	.46
216	.76	.82	.77	.80
217	.68	.69	.84	.75
218	.61	.54	.63	.62
219	.74	.73	.69	.73
220	.43	.69	.52	.56
221	.59	.75	.71	.67
222	.58	.57	.52	.58

Attitude Toward Court Procedure Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
223	.63	.59	.61	.63
224	.67	.59	.83	.69
225	.65	.72	.68	.70
226	.63	.69	.68	.70
227	.58	.79	.58	.67

Attitude Toward Police Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
228	.90	.69	.78	.79
229	.70	.69	.81	.73
230	.61	.69	.69	.66
231	.68	.47	.44	.54
232	.82	.71	.75	.76
233	.80	.68	.73	.73
234	.71	.80	.77	.76

Attitude Toward Prosecutor Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
235	.64	.76	.70	.71
236	.75	.74	.84	.77
237	.43	.66	.59	.58
238	.48	.43	.46	.45
239	.71	.87	.84	.81
240	.84	.83	.64	.78
241	.50	.64	.65	.61

Sense of Injustice Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
128	.73	.41	.59	.63
130	.72	.53	.51	.64
220	.49	.73	.63	.61
221	.47	.65	.58	.55
229	.56	.53	.59	.54

Fairness of System Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
133	.59	.62	.49	.59
212	.67	.48	.65	.63
223	.70	.73	.69	.72
232	.72	.49	.66	.62
239	.48	.41	.61	.51

Helpfulness of System Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
132	.50	.52	.24	.50
135	.67	.61	.64	.71
160	.42	.66	.69	.67
217	.59	.53	.63	.60
233	.40	.45	.61	.40
240	.58	.41	.58	.52

Self-Respect Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
129	.32	.45	.32	.32
158	.50	.61	.67	.66
161	.45	.61	.64	.61
162	.32	.52	.40	.50
225	.58	.60	.59	.61
228	.55	.47	.50	.46
235	.45	.46	.55	.50

Responsibility for the Offence Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
170	.16	.56	.45	.42
172	.49	.51	.55	.52
173	.42	.38	.37	.36
175	.54	.45	.25	.41
176	.57	.53	.44	.50

Berkowitz & Daniels Social Responsibility Scale (Adapted)

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
309	.31	.43	.24	.32
312	.52	.31	.47	.43
315	.51	.56	.58	.55
319	.48	.50	.43	.47
322	.65	.52	.54	.57
325	.54	.55	.66	.57

Alienation Scale

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
216	.56	.75	.77	.73
218	.57	.43	.54	.54
219	.63	.73	.60	.66
222	.61	.64	.65	.67
226	.58	.63	.60	.65
227	.57	.66	.45	.58
234	.39	.49	.58	.43
241	.37	.56	.58	.52

Rotter Internal-External Scale (Adapted)

<u>Item No.</u>	<u>Fine Group</u>	<u>Prob. Group</u>	<u>C.S. Group</u>	<u>Combined Groups</u>
307	.48	.53	.27	.45
310	.40	.24	.23	.30
313	.58	.43	.36	.46
316	.40	.51	.54	.47
318	.60	.63	.49	.57
320	.63	.56	.28	.50
323	.49	.67	.33	.49
326	.42	.46	.46	.44

APPENDIX 5: THE QUESTIONNAIRE

Preliminary Notes - In the approach to the subject, four major points were stressed: a) that I was operating independently of the criminal justice system; b) that the interview and any opinions expressed would be entirely confidential and for research purposes only; c) that the subject's participation was completely voluntary and that neither his participation nor his refusal to be interviewed would in any way affect his sentence; and d) that there were no right or wrong answers to any questions and that it was simply a matter of obtaining an indication of the subject's own opinion. My opening remarks were typically as follows:

My name is Ab Thorvaldson, and I'm doing research on opinions as to how the courts work, how they consider cases, and particularly how they sentence people. I have a questionnaire, and I'm wondering if you would be willing to run through it with me. I have nothing to do with the system. I was just given permission to approach you on a confidential basis to see if you would be interested. Your answers would be strictly confidential, and it's completely up to you.

In those cases where there was suspicion and hesitation I would of course try to reassure the subject and stimulate his interest. I might add, for example, that I understood that the prospective subject had received a certain sentence type and that I would like to get his opinion or attitude toward it; that I was comparing the attitudes of people who had been given different types of sentence such as Probation, the Fine, and CS; and that his opinion would be very helpful.

In those cases where the subject was approached 'cold', i.e., with no prior intervention on the part of any official of the court or the probation service, care had to be taken that the confidential nature of the contact be preserved. Thus where I had to leave a message for a subject who was not at home when I called, I would simply indicate that I was doing research on social attitudes and that the subject's name had been picked by chance.

In the questionnaire given below the order of items reflects of course the order in which the questions were put to each subject. Code numbers required for computer analysis are retained for convenience.

General Data

Subject's name, address and phone number.

- 101. Sentence type: 1) Fine; 2) Probation; 3) Community Service.
- 102. Catchment area: 1-2) Cambridge and district; 3-4) Nottingham and district; 5) London; 6) Bedford.
- 103. Subject number: 1st digit.
- 104. Subject number: 2nd digit.
- 105. Computer card number.
- 106. Sentence-interview interval (in weeks).
- 107. Interview setting: 1) Home; 2) CS placement; 3) Probation Office; 4) other.
- 108. Court type: 1) Magistrates' Court; 2) Crown Court.
- 109. Sentence length or severity (amount of Fine, duration of Probation, number of hours CS).

Questionnaire

- 119. How do you feel about your sentence? Prompt: What do you think about it in general? Why do you feel that way?
- 120. (Investigator's analysis of the subject's general attitude.)
- 121. What type of sentence did you expect? Prompt: I notice you received _____. Did you think you might get some other type of sentence such as _____?
- 123. How heavy or light did you think your sentence was? I have a scale as you will see here ranging from 1 - 7; that is, was it much lighter than you expected on this extreme (indicating 1), or was it much heavier than you expected on this extreme (indicating 7) or somewhere in between?

You indicated earlier what you thought of your sentence. I now have a series of what are called 'rating scales' which also concern what you felt about your sentence and what you thought about it. They make it easier to compare your views with those of others. You will see that each scale ranges from one extreme to the other, across 5 points. All you need to do is tell me which point I should check to show which way you felt. For example, take the first item: did you feel really relieved just after you received your sentence, or, on the other extreme, pretty upset or unhappy about it, or somewhere in between? (The first item was thus used as a trial item. The questionnaire then proceeded with the following bi-polar adjective scales.)

128. Bitter - grateful or pleased.
129. Degraded or embarrassed - not degraded or embarrassed.
130. Not angry - angry.
131. Sense of injustice - sense of justice.
132. Hopeful about the future - not hopeful about the future.
- The next few items have to do not so much with your feelings about your sentence but rather what you may have thought about it. Did you think your sentence was:
133. Fair - unfair.
134. Not sensible in your case - sensible in your case.
135. Helpful to you - harmful to you.
136. Unsuitable in general for your type of offence - suitable in general for your type of offence.
137. Clear as to its purpose - unclear as to its purpose.
139. Have there been any changes in your general feelings or attitudes towards your sentence since the time you were sentenced?
142. Has the sentence had any effect upon you in any way?
143. Why do you think you were given your type of sentence? Prompt: What do you think were the main purposes of the magistrates/judge?
145. Do you think the court, by choosing your type of sentence, and quite apart from keeping you out of prison, was mainly trying to:
- (a) Teach you to obey the law by punishing you for the offence?
 - (b) Teach you to obey the law by providing you with supervision or help with your problems?
 - (c) Teach you to obey the law by making you make up for the offence in some way?
151. How would you rate these three types of sentence from best to worst for your kind of case: the Fine, Community Service, and Probation? Why?

I now have another group of rating scales asking about whether you think the sentence will have any effect on you in the future. As you can see here, each question is followed by a five point scale ranging from 'not at all' if you think the sentence would

have no effect on you, through 'minor degree', then 'some degree', then 'a good deal', and finally to 'a great deal', where you think the sentence would have a real effect upon you. Take your time if you wish; you don't need to rush. Starting with the first question:

157. Do you think your sentence will help you to stay out of trouble with the law in the future? Not at all, to a minor degree, to some degree, a good deal, a great deal.
158. Do you think your sentence will help you to feel any better about yourself? A great deal, a good deal, to some degree, to a minor degree, not at all.
159. Do you think your sentence will help you to understand other people any better? Not at all, to a minor degree, to some degree, a good deal, a great deal.
160. Do you think your sentence will help you to understand yourself or your problems any better? Not at all, to a minor degree, to some degree, a good deal, a great deal.
161. Do you think your sentence will help you, so far as it goes, to start with a clean slate so far as society is concerned? A great deal, a good deal, to some degree, to a minor degree, not at all.
162. Do you think your sentence will tend to make you feel more like a law-breaker and apart from other citizens, or rather less like a law-breaker and more like other citizens, or have no effect either way? Again, you will see here a five-point scale ranging on the left from definitely more like a law-breaker through to the right where the answer would be definitely more like other citizens, with several points in between.
- I'd now like to ask a few questions about the sort of trouble you were in:
164. I understand the offence was _____. It that correct?
167. How did you plead - guilty or not guilty?
168. Why did you plead guilty/not guilty?
169. What do you feel about the offence now?
170. Do you have any regret about the offence? Here is a scale going from 'a great deal', then 'a good deal', 'some', 'a little', 'no regrets at all'.
171. Why do you feel that way?

172. In your case, do you think getting caught was largely due to bad luck, or to mistakes on your part? Here is a scale going from 'definitely bad luck' through five points to 'definitely mistakes'.
173. Were you influenced by any one in any way toward committing the offence? Again here is a five point scale going from 'not influenced at all', then 'a little', then 'to some degree', then 'a good deal', and finally 'a great deal'.
175. Did you commit the offence for your own benefit or for the benefit of others? Here is the scale: 'completely for myself', 'mostly for myself', 'about 50/50', 'mostly for others', 'completely for others'.
176. Do you think the offence was mostly due to the situation you were in so that you had little choice, or mostly your own fault, your own choice? Here is the scale: 'completely the situation', 'mostly the situation', 'about 50/50', 'mostly my fault', 'completely my fault'.
- Since we have been talking about the business of getting in trouble with the law, I wonder if I could ask some general questions about why people in general obey the law or break the law and what they think about the law. The first one is:
207. What do you think is the worst thing about getting in trouble with the law?
208. Why do you generally keep to the law? Prompt: Why do you think people in general keep to the law?
209. How do you generally feel after you do something wrong to others - as we all do at times - in your private life - not necessarily a crime?
210. What do you usually do if you have done someone harm? Why?
211. If someone does you a wrong, what are your feelings and what do you do? Prompt: Would anything happen if you did nothing at all?
179. (Investigator's rating of the subject's moral development level.)
- I would like to get some idea of your impressions of the various people in the system. Here, as you can see, is a series of rating scales which are the same as the ones we did earlier. These should go more quickly. The first set concerns your impressions of the magistrates/judge who sentenced you on this occasion. Do you see them/him as:
212. Fair, listens to both sides - Unfair, listens only to the police.
213. Knows their/his job - don't/doesn't know their/his job.

214. Old fashioned - modern.
215. Weak personalities(y) - strong personalities(y).
216. Flexible, will listen - set in their/his ways, hard to influence.
217. Not understanding - understanding.
218. Upper class - working class.
219. Warm personalities(y) - cold personalities(y).
220. Lenient - severe.
221. See(s) the bright side - see(s) only the dark side.
222. How closely can you imagine associating with the magistrates/judge? How close do you think you would feel comfortable? As you can see the scale goes from a good deal of contact through to pretty well none at all. Can you see the magistrates/judge: as close friends, as neighbours, as people you would associate with in a recreational club or at a place of work, as citizens of your town or city where you would have little chance of contact, or finally as citizens of your country where there is hardly any chance of seeing them again.
- Turning to the way things were handled in the court, do you think the court procedure was:
223. Unfair - fair (Prompt: Do you feel you got an unfair/fair hearing, the way things were run?)
224. Careful - rushed (Prompt: Do you think they paid attention to things or rather rushed you through?)
225. Polite - rude (Prompt: Do you think they treated you with reasonable consideration, or rather rudely?)
226. Impersonal - personal (Prompt: Do you feel the court took an interest in you as a person, or tended to see you as just another case?)
227. Easy to understand - hard to understand (Prompt: Did it seem clear what was going on?)
- In connection with your case this time, were the police:
228. Polite - rude.
229. Prejudiced against you, out to get you - neutral, businesslike, doing their job.
230. Careful - rushed.

231. Know their job - don't know their job.
232. Unfair - fair.
233. Not understanding - understanding.
234. Can you imagine the policeman as a friend - cannot imagine the policeman as a friend.
- Was the prosecutor in your case this time:
235. Polite - rude.
236. Prejudiced against you - neutral, businesslike, doing his job.
237. Careful - rushed.
238. Knows his job - doesn't know his job.
239. Unfair in presenting the case - fair in presenting the case.
240. Not understanding - understanding.
241. Can imagine the prosecutor as a friend - cannot imagine the prosecutor as a friend.
242. As a result of your sentence this time, has your general attitude towards the court system changed at all? Is it more negative or worse, or is it more positive or better, or is it about the same as it was before? Here's a scale ranging from negative, through five points, to positive.
- I would now like to ask a number of questions about your background, and again I want to stress that the information is strictly for research purposes and completely confidential. Most of the questions are simply routine things which will allow me to compare your opinions with those of others who are about the same age or have been in the same sort of trouble. The first question is:
259. What is your age?
261. What type of school did you go to? 1. Elementary, 2. Secondary-Modern, 3. Technical, 4. Other.
262. How old were you when you left the standard school system?
263. Since you left school have you taken any further education or formal technical training of any sort?
264. Are you employed at present?
265. Were you employed at the time of your sentence.

266. What is your usual type of employment?
267. How long was your longest steady job since you started working?
268. What is your present marital status? 1. Single, 2. Married, 3. Separated, 4. Divorced, 5. Widowed.
269. How many times were you convicted (if any) of an offence prior to the present one, counting the times (if any) that you were found delinquent in juvenile court, but not counting traffic offences?
270. (If applicable) How old were you the first time you were found delinquent/convicted?
271. (If applicable) How many times prior to your present conviction were you sent by a court to an institution, including a childrens' home (if it was because of delinquencies), and a hostel, as well as a prison?
272. (If applicable) How long was it between this last conviction and the one previous to it?
273. (If applicable) How long was it between this last conviction and the last time you were released from an institution or prison?
274. Did your offence this time, or (if applicable) do your offences usually, involve: alcohol? drugs? both? neither?
275. (If applicable) At the time of your present sentence were you on parole? on probation? under some other form of court supervision?
276. Has any member of your immediate family been in trouble with the law, not counting traffic offences: very much so/slightly/not at all?
277. Have your present group of friends been in trouble with the law, not counting traffic offences: most/some/none?
- Finally I'd like to ask you a series of questions not directly connected with the law or the legal system. It's just to get an idea of your general outlook on the world. I think you'll find the questions interesting, and this should only take a few minutes. As you can see here, each question is made up of two statements indicating two roughly opposite ways of looking at an issue. Your job is to let me know which one you agree with more than the other. Here are the questions:
307. In your case getting what you want has little or nothing to do with luck OR many times you might just as well decide what to do by flipping a coin.

308. These days a person can know whom he can count on OR these days a person does not really know whom he can count on.
309. When you are working in a group do you tend to get involved in the planning OR generally leave it to others.
310. What happens to me is my own doing OR sometimes I feel I don't have enough control over my life.
311. Nowadays a person has to live pretty much for today and let tomorrow take care of itself OR nowadays a person can't just live for today; you have to plan ahead for tomorrow.
312. It is important to finish anything you start OR it is OK to switch to something you like doing better if it comes along.
313. People are lonely because they don't try to be friendly OR there's not much use in trying too hard to please people. If they like you, they like you.
314. There's little use writing to public officials because they are not really interested in the lot of the average person OR it is useful to write to public officials because often they are interested in the problems of the average man.
315. You can't really do good all the time OR it's important never to let people down.
316. It's not wise to plan too far ahead because things turn out to be a matter of good or bad fortune anyhow OR when you make plans you almost certainly can make them work.
317. In spite of what some people say the lot of the average man is getting better, not worse OR in spite of what some people say the lot of the average man is getting worse, not better.
318. I have often found that what is going to happen will happen OR trusting to chance has never turned out as well for me as making a decision to take a definite course of action.
319. You should always do your best on any job OR you should not be too strict on yourself.
320. No matter how hard you try, some people just don't like you OR people who can't get others to like them just don't understand how to get on with others.
321. This is a good time to bring children into the world, the way things look for the future OR it's hardly fair to bring children into the world the way things look for the future.
322. It's always more important to work first for your own good OR it's always more important to work first for the good of the team.

323. Getting a good job depends mainly on being in the right place at the right time OR getting a good job is a matter of hard work; luck has little or nothing to do with it.
 325. Doing things you enjoy should come first OR doing things which are important should come first.
 326. The average citizen can have an influence on government decisions OR this world is run by a few people in power and there's not much the little guy can do about it.
- Is there anything else you want to say in general about your sentence or about the justice system?
177. (Investigator's rating of the subject's apparent understanding of the questionnaire.)

Notes:

APPENDIX 6: RELATIONSHIPS^{abcd} BETWEEN CONTROL VARIABLES
AND DEPENDENT VARIABLES

Dependent Variable	Control Variables	
	Catchment Area (102) ^h	Sentence-Interview Interval (106)
Scales	r	r
1. Feelings after Sentence	.08	.03
2. Evaluation of Sentence	-.11	-.03
3. Perceived Effects of Sentence	-.16	-.14
4. Attitude to Magistrates	-.06	.04
5. Attitude to Court Procedure	.03	.02
6. Attitude to Police	.02	.04
7. Attitude to Prosecutor	.10	.00
8. Alienation	.03	.04
9. Self-Respect	-.04	-.12
10. Helpfulness of System	.13	-.02
11. Fairness of System	-.10	.00
12. Sense of Justice	-.03	.02
13. Internal-External Factors ^e	-.05	-.10
14. Anomy ^f	.12	-.01
15. Social Responsibility ^g	-.09	.01
Single Items		
157 ^h Reductive Effect	-.11	-.09
158 Effect on Self-Esteem	-.13	-.15*
159 Understanding of Others	-.16	-.02
160 Understanding of Self	-.11	-.03
161 Moral Effect	-.11	-.10
162 Alienating Effect	-.03	-.25**
168 Attitude to Conviction	-.02	-.05
169 Attitude to Offence	-.20	.07
222 Social Distance from Magistrates	.09	.01
242 Change of Attitude to System	.12	-.03

APPENDIX 6 (Continued)

Dependent Variable	Control Variables		
	Inter-view Setting (107)	Court Type (108)	Type of Sentence Expected (121)
Scales	r	r	r
1	.03	-.11	.39***
2	-.09	-.10	.27***
3	-.01	-.08	.30***
4	-.09	.01	.10
5	-.09	-.03	.08
6	-.05	-.04	.05
7	-.12	.00	.10
8	.08	-.02	.16*
9	-.03	-.06	.21**
10	-.10	-.10	.27***
11	-.06	-.09	.23**
12	-.06	-.16*	.29***
13	.11	-.05	-.01
14	-.08	-.09	-.08
15	.09	-.07	.20*
Single Items			
157	.01	-.06	.20*
158	.07	-.09	.21**
159	-.05	-.03	.24**
160	.11	-.10	.14*
161	-.11	-.08	.25**
162	.13	-.05	.28***
168	-.16	.34**	-.30***
169	-.07	.25***	-.22**
222	.06	.06	.04
242	-.14	.01	.13

APPENDIX 6 (Continued)

Dependent Variable	Control Variables			
	Perceived Sentence Severity (123)	Age (259)	Further Education (263)	Marital Status (268)
Scales	r	r	r	r
1	-.52***	-.07	.13	.16*
2	-.49***	-.02	.04	-.08
3	-.40***	-.05	.10	-.09
4	-.21**	.16*	.01	.03
5	-.23**	.21**	-.04	.00
6	-.12	-.02	.10	-.08
7	-.12	.33***	.05	.06
8	-.25**	.19*	-.02	-.01
9	-.29***	.11	.12	-.07
10	-.42***	.05	.10	-.13
11	-.34***	.13	.13	-.02
12	-.39***	.05	.13	-.11
13	.06	-.04	.12	-.12
14	.13	.14	.03	.08
15	-.01	-.26***	.05	-.21*
<u>Single Items</u>				
157	-.28***	-.13	.05	-.08
158	-.35***	-.04	.11	-.11
159	-.29***	-.01	.07	-.03
160	-.26***	-.05	.07	-.11
161	-.22**	-.02	.13	-.06
162	-.34***	.05	.00	.03
168	.26***	.03	.24**	.14
169	.23**	.07	-.06	.10
222	-.10	.21**	-.10	.15*
242	-.27***	.07	-.11	.11

APPENDIX 6 (Continued)

Dependent Variable	Control Variables		
	No. Prev. Convictions (269)	Employment Index (279)	Criminality Index (280)
Scales	r	r	r
1			
2	.26***	-.11	.29***
3	.14	-.02	.15
4	.03	-.02	.01
5	-.02	.14	-.11
6	.02	.14	-.04
7	.08	-.05	.03
8	-.02	.19*	-.13
9	-.02	.19*	-.07
10	.12	-.01	.02
11	.02	.03	.02
12	.23**	-.10	.14
13	.17*	.01	.06
14	.12	-.24**	.14
15	.08	-.12	-.01
	.07	-.26***	.15*
<u>Single Items</u>			
157			
158	-.09	.04	-.05
159	.09	-.05	.10
160	.09	-.02	.06
161	.02	-.05	.06
162	-.02	.02	-.09
168	.08	-.02	-.03
169	-.15*	.18*	-.12
222	.05	-.02	-.04
242	-.03	.23**	-.12
	.07	.16**	.01

a. The Pearson coefficient is used where both variables are continuous, the Point-Biserial where one is continuous, and the Phi coefficient where both are dichotomous.

b. * = p. < .05; ** = p. < .01; *** = p. < .001.

APPENDIX 6 (Continued)

- c. The direction of the relationships may be deduced from the following code:

Control Variables

Catchment area (102): Nottingham, 0; Cambridge and Inner London, 1.

Sentence-Interview Interval (106): Short to Long Interval.

Interview Setting (107): Home, 0; Other, 1.

Court Type (108): Magistrates', 0; Crown, 1.

Type of Sentence Expected (121): Non-prison, 0; Prison, 1.

Sentence Severity Rating (123): Light to Heavy.

Age (259): Young to Old.

Further Education (263): No, 0; Yes, 1.

Marital Status (268): Married, 0; Other, 1.

Number Previous Convictions (269): None to Many.

Employment Stability Index (279): Low to High Stability.

Criminality Index (280): Low to High Criminality.

Dependent Variables

All variables except for 168 and 169: Low (negative attitude) to High (positive attitude).

Attitude to Conviction (168): Clear admission, 0; Other, 1.

Attitude to Offence (169): Clear acceptance of responsibility, 0; Other, 1.

- d. $n = 132$ for all computations except for Catchment Area (102) and Interview Setting, where $n = 90$.
- e. After Rotter (1972), adapted.
- f. After Srole (1956) as modified by Carr (1971).
- g. After Berkowitz and Daniels (1964), adapted.
- h. Code numbers used in the Questionnaire (Appendix 5) are given for ease of reference.

APPENDIX 7: SOCIAL RESPONSIBILITY SCALE^a: ITEM SCORE DISTRIBUTIONS

Scale Item	Group ^b .	Score		p. < c.
		Negative	Positive	
Do not/do get involved in planning (309)	Fine	19.0	81.0	n.s.
	Probation	21.4	78.6	
	CS	22.9	77.1	
Not important/important to finish what you start (312)	Fine	35.7	64.3	n.s.
	Probation	35.7	64.3	
	CS	43.8	56.3	
Not important/important not to let others down (315)	Fine	50.0	50.0	n.s.
	Probation	52.4	47.6	
	CS	50.0	50.0	
Should not/should always do your best (319)	Fine	23.8	76.2	n.s.
	Probation	19.0	81.0	
	CS	18.8	81.2	
Should work first for self/ others (322)	Fine	54.8	45.2	n.s.
	Probation	47.6	52.4	
	CS	54.2	45.8	
Should do enjoyable/important things first (325)	Fine	26.2	73.8	n.s.
	Probation	40.5	59.5	
	CS	25.0	75.0	

a. Adapted, after Berkowitz and Daniels (1964).

b. n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

c. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined

APPENDIX 8: INTERNAL-EXTERNAL SCALE:^a ITEM SCORE DISTRIBUTIONS

Scale Item	Group ^b	Score		p. ^c
		Negative	Positive	
Not luck/luck determines rewards (307)	Fine	69.0	31.0	n.s.
	Probation	66.7	33.3	
	CS	79.2	20.8	
Do not have/have control over my life (310)	Fine	73.8	26.2	n.s.
	Probation	66.7	33.3	
	CS	79.2	20.8	
Cannot/can influence acceptance by others (313)	Fine	50.0	50.0	n.s.
	Probation	47.6	52.4	
	CS	54.2	45.8	
Cannot/can make plans work (316)	Fine	26.2	73.8	n.s.
	Probation	28.6	71.4	
	CS	27.1	72.9	
Wiser to leave to chance/plan a course of action (318)	Fine	45.2	54.8	n.s.
	Probation	47.6	52.4	
	CS	52.1	47.9	
Cannot/can learn how to get on with others (320)	Fine	40.5	59.5	n.s.
	Probation	54.8	45.2	
	CS	60.4	39.6	
Success determined by luck/work (323)	Fine	57.1	42.9	n.s.
	Probation	61.9	38.1	
	CS	54.1	45.9	
Cannot/can influence government decisions (326)	Fine	28.6	71.4	n.s.
	Probation	28.6	71.4	
	CS	25.0	75.0	

a. Adapted, after Rotter (1966).

b. n=42, 42, and 48 for the Fine, Probation and CS groups respectively.

c. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

APPENDIX 9: ANOMIE SCALE:^a ITEM SCORE DISTRIBUTIONS

Scale Item	Group ^b	Score		p. < c.
		Negative	Positive	
Person cannot/can know who to count on	Fine	33.3	66.7	n.s.
	Probation	38.1	61.9	
	CS	37.5	62.5	
Person should live for today/ plan ahead (311)	Fine	42.9	57.1	n.s.
	Probation	54.8	45.2	
	CS	54.2	45.8	
Public officials are not/are inter- ested in average man (314)	Fine	35.7	64.3	n.s.
	Probation	28.6	71.4	
	CS	45.8	54.2	
Things are generally getting worse/better (317)	Fine	26.2	73.8	n.s.
	Probation	28.6	71.4	
	CS	41.7	58.3	
Not good/good time to give birth (321)	Fine	45.2	54.8	.10
	Probation	31.0	69.0	
	CS	56.3	43.8	

- a. After Srole (1956) as modified by Carr (1971).
b. n=42, 42, and 48 for the Fine, Probation and CS groups respectively.
c. Probabilities based on the Chi Square Test comparing the group frequency distributions dichotomized at the median of the distribution of scores for all groups combined.

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