The Public’s Sense of Justice in Sweden –
a Smorgasbord of Opinions
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The Public’s Sense of Justice in Sweden – a Smorgasbord of Opinions

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Blimey, the dissertation is actually finished! F.I.N.A.L.L.Y!

I will give some special thanks to a couple of people who have been instrumental for the thesis to make it this far. To you who have been there in “real life” during these mad times I hereby send out a big THANK YOU straight from my heart. Ok, here we go.

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Well then, off to the printer’s and then “The Spectacle” will be held in a couple of weeks. So long!

Kristina Jerre
Stockholm, August 2013
List of original papers


**Paper III:** Jerre, K. (accepted for publication). More sanctions – less prison? A research note on the severity of sanctions proposed by survey participants and how it is affected by the option to combine a prison term with other sanctions. *European Journal on Criminal Policy and Research*.
INTRODUCTION

The public’s views on what constitute appropriate reactions to crime, have come to assume an increasingly central position in the crime policy rhetoric of western countries. This phenomenon has been described in different ways by a number of different authors (e.g. Pratt 2007, Freiberg 2003, Garland 2001, Beckett 1997, Bottoms 1995).

In Sweden, the goal of the justice system was redefined during the 1980s, from having been focused on the treatment of deviant individuals, to “reflecting the citizens’ perceptions of what justice should be” (Andersson 2002 p.130). Andersson (2002) describes how this shift in objective of the justice system manifested itself in recurrent references to the public’s sense of justice as one of the grounds for legitimizing the formulation and practice of crime policy. Public documents state, for example, that one factor that is necessary for the justice system to have legitimacy is that “the citizens perceive that the justice system functions in a fair and correct manner” (prop. 1984/85:100 p.18, see also prop. 1985/86:100, p.26) and further, that “it is an important task to work to adapt penal legislation to current values” (ibid. p.19). At the same time as “the public’s sense of justice is of fundamental significance to the assessment of penal value”, however, caution is advocated in relation to interpretations of the public’s sense of justice as a result of the difficulties associated with developing a clear picture of what this sense of justice contains (SOU 1986:14 p.145).

There has been both a quantitative and a qualitative shift in references to the public’s sense of justice in the rhetoric of crime policy. A search1 of both parliamentary and media archives shows that there has been a substantial increase of just under 100 hits per decade. If the search is limited to documents from the Ministry of Justice, the number of hits for “public/public’s sense of justice” increases from fourteen and sixteen, during the 1970s and 1980s respectively, to 61 during the 1990s and 93 during the 2000s (www.riksdagen.se). A simple search of the media archive of all printed media in Sweden shows that the number of articles containing this term has increased from four per year during the 1980s to 21 per year during the 1990s and 58 per year during the 2000s. During the period 2010–2012, the term has appeared in an average of 87 articles each year (http://web.retriever-info.com/services/archive.html).

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1 The number of hits for the search term “public/public’s sense of justice” increases from 144 during the 1970s to 435 during the 2000s. In the intervening period, there is a continuous increase of just under 100 hits per decade. If the search is limited to documents from the Ministry of Justice, the number of hits for “public/public’s sense of justice” increases from fourteen and sixteen, during the 1970s and 1980s respectively, to 61 during the 1990s and 93 during the 2000s (www.riksdagen.se). A simple search of the media archive of all printed media in Sweden shows that the number of articles containing this term has increased from four per year during the 1980s to 21 per year during the 1990s and 58 per year during the 2000s. During the period 2010–2012, the term has appeared in an average of 87 articles each year (http://web.retriever-info.com/services/archive.html).
increase in the occurrence of the concept of the public/public’s sense of justice between the 1970s and the first decade of the 21st century. In the context of crime policy rhetoric, there has been a tendency in certain areas for the significance of the public’s values to have been upgraded since the 1980s, from having been one of a number of grounds used to legitimize changes in penal legislation, to have become the main such ground.

This latter shift may be illustrated by means of the Swedish Sanctioning Level Inquiry, which was appointed in March of 2007 to consider and propose changes to the penal legislation regarding serious violent crime. The inquiry’s final report states that the reasons for the changes proposed by the inquiry were not related to any violence prevention goals, since it is difficult to show that any such effects are produced by changes in penal legislation. Nor were the changes, which came into force in July 2010, motivated by any clear tendencies towards an increase in the level of violent crime (SOU 2008:85 p.258). “The (emphasis added) reason underlying the legislative changes was the more severe view of serious violent crime [manifested] in the public’s sense of justice” (SOU 2013:7 p.61).

The “punitive turn” that is described in analyses of 20th century western crime policy has been explained in the international literature as being due to, amongst other things, a greater responsiveness to the idea that the public expects and demands stiffer sanctions (Roberts, Stalans & Indermaur 2002, Garland 2001).

The perception that the public is in favour of more severe sanctions is nothing new in Sweden. What is different is the significance ascribed to this public punitiveness. Prior to the 1980s, the public’s sense of justice, and the public’s punitiveness in particular, was described as constituting an obstacle to humane and treatment-focused reforms (Bondeson 1979). Bondeson refers to a number of different authors, however, who have argued that the public was for the most part positive about existing legislation, that there was a correspondence between public’s sense of justice and the existing legislation and its application in practice. In those cases where there was a discrepancy between the two, this was due to the public’s sense of justice, which is of a conservative nature, lagging behind the legislation.

On the basis of the references that have been made to the public’s sense of justice over the past 30 years, however, and perhaps particularly those that have been made since the turn of the millennium, it would instead rather appear that legislation and sanctioning practice have come to lag behind the public’s sense of justice. Instead of resisting it, it has instead become a goal, or it has at least become desirable, that policy and practice should lie in line
with the public’s sense of justice which is still described as demanding more severe sanctions.

One thing that is absent from references to the public’s sense of justice, however, is any form of description of what the term is intended to mean. Nor are there any descriptions of how we might assess the extent to which there is a correspondence or an imbalance between the public’s sense of justice and existing legislation or legal praxis. In the absence of such descriptions, there is a risk that references to the public’s sense of justice and its contents may become quite arbitrary. References to arbitrary grounds of legitimacy are however something that do not fit well with the goal of a knowledge-based crime policy (Socialdemokraterna [Social Democrats] 2012, Prop 2012/13:1 Chapter 4).

At the same time, as Axberger (1996) notes, it may not need to be any more difficult than simply interpreting the concept as an argument for the view that “the standpoint which the public is claimed to advocate should serve as a guiding principle” (p.9). In a democratic society, it is difficult to question such an argument. The recipients of the argument can then choose whether or not they agree with the description provided of the public’s sense of justice and with its significance in a given context. Axberger also notes, however, that given the central position that references to the public’s sense of justice have come to assume in the legal policy debate, the concept cannot be dismissed so lightly.

There is thus good reason to take the concept of “the public’s sense of justice” seriously and also to problematize both its use, and the content ascribed to it, in the context of crime policy rhetoric – where it has become a basis for legitimizing crime policy strategies.

The purpose of this thesis is to problematize the use of referrals to the public’s sense of justice as a legitimizing ground for penal legislation is problematized from an empirical perspective. The principal focus is directed at references to the public’s sense of justice in the context of the crime policy rhetoric focused on penal legislation.
The public’s sense of justice in crime policy rhetoric

Public opinion became established as a political phenomenon in Western Europe in about 1750. It became an important factor in relation to the decision-making of the Swedish parliament during the early years of the 19th century. However, definitions of what public opinion is, what it contains, how it is expressed and how it can be read have been the subject of debate ever since (Harvard 2006). In spite of this, throughout this period, references to public opinion have been used as an important legitimizing argument in the political rhetoric of legislative activity.

Definition…

To determine what the public sense of justice, or public opinion, is has been described as an almost impossible task (Childs 1965). Nor is it the objective of this chapter to provide a final definition of the public sense of justice. The objective is rather to point to the lack of clarity associated with what is meant by the concept.

From a holistic perspective, society is viewed as an organism in its own right, with a soul and a consciousness of its own. On the basis of this view, the public sense of justice constitutes part of this societal consciousness. This *volksgeist* is formed by a society’s historical development and it permeates all the citizens of society (Victor 1981). Durkheim (1893/1969) describes how “the totality of beliefs and sentiments common to average citizens of the same society forms a determinate system which has its own life; one may call it the collective or common conscience” (ibid. p.79). This type of common, but at the same time society-specific, soul-of-the-people variant of the sense of justice is based on ideas of national identity, pride and uniqueness (Axberger 1996).
Early references to public opinion were made in this metaphysical sense, “in the form of nationalistically focused conceptions of a soul-of-the-people --- They were based on ideas of a mystical, invisible correlation between the views of a people and the national character” (Harvard 2006, p.200). For reasons of contemporary history, and given the consequences of the extreme nationalist-romantic ideas that flourished in Europe during the 20th century, references to the public sense of justice in this sense of the term have today become rather suspect to say the least.

However, Axberger (1996) describes two somewhat more concrete variants of the collective soul-of-the-people type of sense of justice, which he calls the historical-cultural and the period-bound sense of justice. The first is described by Axberger as a legal heritage or legal tradition. It is comprised of the collected experiences that over time have become general points of departure and principles, concretized in the form of actual legal principles, and that have developed into something self-evident for a given society and its citizens. The time-bound sense of justice is also based on collective attitudes and values. Axberger describes this in terms of currents of opinion that we can all sense. He argues further that when references are made today to changes in societal views, it is probably this type of period-bound collective sense of justice that is being referred to.

While the collective forms of the sense of justice described above lie beyond and at the same time permeate individuals’ own opinions, the reductionist sense of justice is described as being the sum of individuals’ direct opinions. As a result of this definition, the reductionist sense of justice becomes a measurable entity (Victor 1981). The operationalization of the public’s sense of justice as the opinions expressed in questionnaire surveys by a representative sample of individuals from a certain population was introduced by Gallup and Roper during the 1930s. They argued that the public possessed politically relevant opinions which should be known to both the public and political leaders (Zetterberg 2008).

As regards the content of the public’s sense of justice, viewed from a holistic perspective it might be seen as being comprised of collective values of a more general kind. Possible examples of such values might include equality before the law or the proportionality principle. A reductionist sense of justice, on the other hand, might instead be comprised of everything that individual citizens have an opinion about or an attitude towards. This might thus involve anything and everything from very general fundamental principles to

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2 Questionnaires were used to collect information on opinions as early as the 18th century. What was new with the Gallup method was the use of sampling principles that had the objective of producing representative samples (Harvard 2006 p.93).
the issue of which specific, concrete sanctions are appropriate in individual cases.

...and content

It can be noted that references to the public’s sense of justice can be found in a very wide range of contexts. A review of opposition bills in the Swedish parliament shows that the public’s sense of justice is referred to in arguments relating to everything from legislation on the application of value added tax to second-hand goods and regulations on the flagging of small boats, to the formulation of criminal legislation (Rickfors 2012).

Presented below are a number of examples of the ways in which the public’s sense of justice is referred to in crime policy bills. In the first two examples, the public’s sense of justice is not ascribed any specific content, but is nonetheless expected to serve as a form of guiding principle for the actions of the police and as something that an effective legal system should be based on.

“The point of departure for the New York model is therefore that no crime is too small for the police to intervene against. Society’s approach will be characterised by early and distinct reactions. Negative developments will be interrupted before they take hold. If society gets to grips with petty crimes, if people’s sense of justice is taken as the point of departure for the actions of the police, this will affect the entire climate of society. Serious crimes will decline when action is taken against petty crimes. It is often the same individuals who are responsible for both types of crime. People’s morality is the point of departure. It is not wrong to react against the “degeneracy of youth”, it is wrong not to care.” (Motion 1998/99:Ju901).

“People’s sense of justice is based on an effective legal system that provides swift and clear signals about what society judges to be right and wrong. The legal system is expressed via legislation, the police, the prosecution service and the courts, other legal representatives and the prison and probation service. There has to be consensus between people’s perceptions of right and wrong and those of the legal system. [...] When it comes to people with psychiatric disturbances who have committed criminal acts, it is particularly important that the prison and probation service provide for the individual’s needs at the same time as consideration is given to the public sense of justice.” (Motion 2003/04:Ju449).
In the following quote, the public’s sense of justice is described as including perceptions about the types of acts for which criminal responsibility should be enforced. This particular example describes how criminal responsibility should be exacted from those who drive a vehicle in an intoxicated condition irrespective of whether this happens on a road, railway, on water or in the air.

“The memorandum notes that the need to combat insobriety in traffic by means of liability provisions is uncontested with regard to traffic on the roads, on water and in the air. This criminal liability is said to have powerful support in the public’s sense of justice and to be indispensable from the perspective of traffic safety. The fact that the same factors speak for a liability provision in the area of railway traffic, at least with regard to drivers, is more or less irrefutable.” (Prop. 1981/82:204).

The public’s sense of justice is also described as containing more concrete elements, which focus on the types of sanction that it is appropriate to award in relation to different types of crime.

“We feel that it is necessary that the public sense of justice is reflected in the sanctions that are meted out. [---] By supplementing Chapter 29 of the Penal Code with an instruction that the sentencing scale is to be used to a greater extent in connection with the establishment of the individual offence’s penal value, the sanctions that are awarded will correspond to the public sense of justice to a greater extent.” (Motion 2005/06:Ju530).

“There are a large number of crimes that society has clearly regarded as being more dangerous and serious than others. These may be sexual crimes, murder, manslaughter and assault, but also serious economic crimes and crimes that pose a danger to society. The sanctions for these crimes are largely concordant with the public sense of justice.” (Motion 2012/13:Ju249).

As it is referred to in these examples, the public’s sense of justice is on the one hand comprised of common values and principles, and on the other is used to legitimize concrete proposals about which sanctions should be awarded for certain offences and for certain types of offender. It is not made clear whether what is being referred to is the sum of individual attitudes about what constitute appropriate reactions, or whether it is rather an interpretation of how collective values ought to be manifested in legislation that has been arrived at by those referring to the public’s sense of justice. Which type of sense of justice it is that is being referred to, however, is crucial to the question of how its content can be read.
Determining the content of the public’s sense of justice

The content of the public’s sense of justice viewed from a holistic perspective cannot be directly measured, but rather, as Axberger (1996) writes, can only be sensed or studied indirectly by means of external indicators. For Durkheim (1833/1969), the law is the indicator that makes this sense of justice visible. If this is the type of sense of justice that is intended, it may be assumed that the politicians who refer to the public sense of justice have (or believe themselves to have) the ability to sense the content of this societal sense of justice, and to determine how this content should/can be concretised in the form of laws and regulations.

If what is intended is instead a sense of justice as defined on the basis of a reductionist perspective, i.e. as the sum of all individual attitudes or opinions, one must assume that these attitudes have been measured by means of some form of empirical methodology prior to being made the basis for crime policy proposals.

From a historical perspective, there has been an ambivalence about allowing measures of public opinion into the political debate. Having an empirically established picture of public opinion has been viewed as involving a risk that this picture would then come to predominate over that of those who had otherwise reserved the right to interpret what the view of the people consisted in. In parallel with the statistical and surveying zeal that prevailed in Sweden and the Swedish state during the 19th century, however, public opinion came increasingly to be described on the basis of approximate quantitative estimates. Quantitative estimates of this kind came to manifest an implicit view that public opinion was worthy of being taken seriously (Harvard 2006).

No Swedish studies of how today’s politicians determine the content of the public’s sense of justice appear to have been conducted. There are however two American studies in which different political actors from New York (Brown 2011) and Springfield (Herbst 1998) were asked how they determine
the content of public opinion in general. According to these studies, levels of confidence in the results of empirical studies are low. Instead, confidence is placed in “… hunches, intuition, and media coverage for insight into public views” (Brown 2011, see also Yankelovich 1991). This critical view of polls and surveys is based on a perception that the subjects that survey participants are expected to express an opinion about are too complex to be able to be summarised in simply formulated questions and response alternatives. In addition, the ordinary citizen is viewed as not being sufficiently knowledgeable to be able to provide well-grounded answers to the questions (Herbst 1998). In Herbst’s study, however, some of the political actors stated that references could be made to questionnaire surveys if their results were in line with the arguments for which support was being sought, but that they were rejected if they contradicted these arguments.

In the absence of a similar Swedish study, interpretations must be sought on the basis of purely anecdotal material. On the basis of such anecdotal material, there appears to be an ambivalence in the attitude towards questionnaire surveys as indicators of the contents of the public’s sense of justice. On the one hand, the current Swedish Minister for Justice, Beatrice Ask, refers to the results of a questionnaire survey commissioned by the Swedish conservative (Moderate) party as evidence that the crime policy being followed by the government is in line with the views of the public (Tidningarnas Telegrambyrå 2010 July 5). Nor is it unusual for survey institutes to be hired to survey the public’s attitudes towards specific political issues. On the other hand, when the Minister for Justice was asked to comment on the results of a research study of the public’s views on sanctioning in Sweden (Jerre & Tham 2010), she noted how important it is to have a discussion about scientific methods in order not to draw overly hasty conclusions about the contents of the public’s sense of justice (Stoll 2010).

In a statement made by the Minister of Justice at a press conference, there is furthermore a suggestion that the public’s sense of justice is a feeling among the public that may be sensed.

There is an impatience out there in Swedish society, where people perceive that the sanctions for very serious violent crime are not in line with public perceptions. --- This more severe view that is found out among the people cannot be seen in the practice of the courts --- …there are therefore powerful

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3 In this survey, 1008 people were asked to answer the question “What is your general view on sanctions for violent crimes?” 70 percent chose the response alternative “Too low”.

4 At the time of this questionnaire survey, an inquiry was underway into legislative changes that would lead to a stiffening of the sanctions for serious violent crime (dir 2007:48).
reasons for raising the sanctioning level for the most serious violent offences” (Ask 2010).\textsuperscript{5}

It is thus difficult, on the basis of the way in which the public’s sense of justice is used and of the content ascribed to it, to interpret what is meant by the term when it is used in the context of political rhetoric, the type of content that it is expected to include, and also how this content has been read.

In the absence of some specification of what is meant by the term, the public’s sense of justice can be ascribed just about any content at all. This is a very useful state of affairs for those who make use of references to the public’s sense of justice, since descriptions of its content cannot be contradicted. There is a risk, however, that arguments that are based on the contents of such an unspecified entity will be perceived as somewhat arbitrary.

If one of the goals of crime policy is that of reflecting the public’s sense of justice, this lack of clarity ought furthermore to lead to problems regarding the possibility of evaluating the extent to which this goal is or is not being achieved. For such evaluation to be possible, the contents of the public’s sense of justice must be dealt with in terms of something that is measurable. The alternative is that the assessment of whether the goal is being achieved is based on an uncritical faith in the special ability of politicians to sense and concretize the contents of the public’s sense of justice.

The type of measurable content of the public’s sense of justice that is in focus in the current context consists primarily in the public’s attitudes about what constitute appropriate reactions to crime. The next section describes the central tendencies that have emerged from the research focused on attempting to identify and describe this content.

The public’s sense of justice in research

When survey participants are asked to give a ‘yes’ or ‘no’ answer to questions with a very general formulation, such as “Are sanctions too mild?”, the majority answer that they are in favor of stiffer sanctions. This has been found in Swedish studies ever since the 1940s (Segerstedt, Karlsson &

\textsuperscript{5} The internet-broadcasts of press conferences that the government offices publish on their website are available only for a limited time, up to approximately one year (www.regeringen.se/sb/d/1880). At the time of writing, the broadcast of the press conference referred to here was no longer available, only the press invitation (www.regeringen.se/sb/d/12512/a/138591).
In the international research there is a well-established view that this image of the public’s sense of justice is overly simplistic and somewhat distorted. Generally formulated questions of this kind conceal a great deal of complexity that could in fact only be captured using a large number of questions. In surveys of this kind, for example, there is nothing to say what types of crime are being referred to either by those posing or those answering the question. Studies have shown that if no other instructions are provided, people tend to proceed on the basis of stereotyped images of crime, i.e. of serious offences committed by serious offenders, not unlike the images of crime that are presented in the media (Green 2009, Casey & Mohr 2005, Roberts 2003, Stalans 1993, Stalans & Diamond 1990, Roberts & Doob 1989).

Nor do such results provide any information about how much stiffer sanctions ought to be, or in relation to what. A number of studies have shown that the public generally have a poor knowledge of the sanctioning system (Roberts 1992, Roberts & Hough 2005), such that they either underestimate (Jerre & Tham 2010, Balvig 2006, 2010, Hough et al. 2008, Mattinson & Mirrlees-Black 2000) or overestimate (de Keijser & Elffers 2009) the severity of existing sanctioning practice. Further, the results also say nothing about the respondents’ views on what it is that makes one sanction more severe than another. How these questions are perceived may also vary between groups of respondents, which raises further doubts about the validity of such findings.6

The difficulties involved in interpreting such results mean that they should not be regarded as providing a particularly stable basis for describing the public sense of justice about appropriate reactions to crime (Green 2006, Thomson & Ragona 1987).

These validity problems may, however, to some extent be reduced by employing a survey method that explicitly states the type of crime that is at issue and that also gives the participants the opportunity to themselves state the type of sanction that would constitute an appropriate reaction to the crime. Since previous studies have shown that different participants have a varying degree of knowledge about the types of sanction that are in use and what these sanctions involve, these things should also be described in con-

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6 See further Bourdieu’s (1972/1991) discussion of this issue in his address entitled “Public opinion does not exist”.
nection with surveys of this kind. In this way, the participants will be given a more similar frame of reference in which to make their judgments. If the objective of the survey is to examine the extent to which there is a correspondence between the public’s sense of justice and existing sanctioning practice, the participants’ responses can be compared with the sanctions that would have been awarded by a court. This helps to clarify the nature of the difference between the public’s sense of justice and existing practice, rather than simply stating whether the public wants “stiffer sanctions”.

It has repeatedly been found that in studies which ask participants to themselves propose suitable reactions to concretely described crimes, the participants’ proposals (on average) do not differ from those that are awarded in accordance with existing praxis (Diamond & Stalans 1989, Roberts & Hough 2005 p. 22, Jerre & Tham 2010). One general pattern that has been noted is that the more information participants are provided with about a given case, about sanctioning alternatives and about the justice system in general, the milder they become in their judgments, in the sense that they propose the awarding of fewer and shorter prison sentences (Gelb 2008, Balvig 2006, 2010, Balvig et al. 2010, see also the review in Kuhn 2002).

In deliberative polls (see Fishkin 1991, 1997 as cited in Luskin, Fishkin & Jowell 2002), a random sample of the population are asked a range of questions (by means of telephone interviews or questionnaires) about their attitudes on crime and penal sanctions. They are then invited to participate in discussions and lectures over a couple of days in order to develop a deeper knowledge of the subject. Thereafter they are once again asked to answer the questions that were posed to them during the first contact. In one study based on this type of design (Hough & Park 2002), different participants became both more and less punitive in their attitudes during the course of the study process. The net change was towards a more liberal view however.7

Thus the picture that emerges as to what are regarded as appropriate reactions to crime varies depending on how the issue is studied. The more advanced the methods employed, the more nuanced is the picture that emerges

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7 Hough and Park’s (2002) study may be subjected to criticism, however, since the study examines changes in the participants’ responses to relatively generally formulated questions. The comparisons included, for example, the proportions that to a varying extent felt that “stiffer sentences generally” are effective as a means of reducing the number of crimes, or who agreed to a varying extent with statements such as “Courts should give tougher sentences to criminals” (p.169). The criticism directed at the use of generally formulated questions and response alternatives is, as has been noted, that they provide no opportunity to read the various nuances that such general questions can reasonably be expected to conceal. The results do not become any easier to interpret simply because the respondents subsequently answer no rather than yes to a greater extent to the above questions.
of the public’s views as to what constitute appropriate reactions to crime. The prevailing view expressed in the research is also that the more advanced the methods employed to study public attitudes, the more valid the resulting description may be regarded as being a basis for legitimizing crime policy arguments. Green (2006) argues that the pictures that emerge from general questionnaire surveys, based on spontaneous answers to generally formulated questions, the meaning of which is often rather vague, “provide a poor justification for policy, and remain susceptible to exploitation by those of all ideological affiliations with axes to grind” (p. 150).

The public’s sense of justice in Sweden

The results of a large Swedish survey (Jerre & Tham 2010) are presented here as a means of illustrating how substantially different conclusions can be drawn about the public’s attitudes to punishment on the basis of different methods. The objective of the survey, which was conducted in 2009, was to study to what extent the public could be regarded as being in favour of more punitive sentencing. Three different methods were used to measure three different types of public sense of justice, the abstract, the informed and the concrete sense of justice.

The abstract sense of justice was measured by asking generally formulated questions in a telephone poll, the informed was studied by means of a postal questionnaire which presented six different concrete crimes in the form of vignettes and then asked the respondents to choose from a list what sanctions that they felt should be awarded for each crime, and the concrete sense of justice was examined by means of a combination of questionnaires and focus group discussions.

In the telephone poll, a majority of the respondents (n=1013) answered that sanctions were too mild and that they were generally in favour of longer prison sentences (Figure 1).

A total of 1057 individuals participated in the postal questionnaire survey that was conducted to study the informed sense of justice. By comparison with sanctions that a number of serving judges had been asked to propose after assessing the crimes described in the vignettes, the majority of the re-

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8 The presentation here will focus on summarising the overarching results. For a more detailed presentation of methods and results, the reader is referred to the report “Svenskarnas syn på straff” (Jerre & Tham 2010), see also the methodologic appendix in this dissertation.

9 For a description of the vignette method, see Bieneck 2009 and Jergeby 1999.
Figure 1. Proportion of participants in the telephone poll, the postal questionnaire survey and the focus group study who (claimed they) wanted longer prison sentences than would be awarded in accordance with existing practice.
SUMMARY OF THE PAPERS

The three studies that have been conducted within the framework of this dissertation are based on the material collected in connection with the research project described above. The method and materials employed are described in more detail in the appendix and in the report “Svenskarnas syn på straff” (Jerre & Tham 2010). The objective of the studies has been to problematize the interpretation of the results from the postal questionnaire survey (see above). A summary of each of the three papers is presented here.

Paper I: Public opinion on appropriate sentences – which public, which opinion?

In the postal questionnaire survey that was conducted within the framework of the Nordic collaborative project described above, the participants were amongst other things asked to state what they felt would constitute appropriate sanctions for six different crimes that were described in the questionnaire in the form of vignettes.

This paper takes as its point of departure the substantial variation found in the answers to the postal questionnaire survey. Although a majority of the participants proposed a prison sentence as an appropriate sanction for the crimes described in the vignettes, there was a substantial variation with regard to how long they stated that these prisons sentences should be. Further, for some of the crimes, almost half of the respondents completely rejected a prison sentence in favour of different types of non-custodial measures. Paper I notes the difficulties associated with summarizing results of this kind into a description of a general public sense of justice with regard to what constitute appropriate reactions to crime.

The most general description would be that the respondents found the crimes in question severe enough to warrant some form of sanction. This description is comprehensive, in that it includes all the respondents, but is not particularly informative. A description stating that the crimes were viewed as being sufficiently serious to warrant a custodial sentence would be repre-
sentative of a total of 72 percent of the survey participants. The central point made in the paper is that the more general and inclusive the description that is formulated, the less informative it becomes as a potential guide to the formulation of justice system policy. At the same time, the more specific the description that is formulated of the public’s sense of justice, the smaller the proportion of the public whose opinions are actually covered by this description.

The usual way of summarizing results from questionnaire surveys is to use different measures of central tendency, such as the mean, mode or median. The analyses presented in this paper show that such descriptions not only represent the responses of a small proportion of the survey participants, but also that they represent the responses of different groups of participants (with regard to age and level of educational attainment) better and worse in relation to different crimes. Thus presenting survey findings using measures of this kind cannot simply be motivated by saying that they consistently represent certain groups of respondents better than others. And even if this were the case, it would be reasonable to expect some kind of motivation as to why the responses of certain groups are deemed to be more valid than those of others.

Another strategy for presenting a representative description of the public’s sense of justice on the basis of survey results would be to find the most informative description that at the same time represents as large a proportion of the respondents as possible. In this way, informative majority descriptions may be “constructed”. In the current data set, however, it was found that similarly efficient majority descriptions could be constructed in more than one way.

The conclusion drawn is that references to public opinion on appropriate sentences should always be followed by a theoretical, methodological, and/or ideological discussion of why the chosen interpretation and description is the most appropriate. Routine references to public opinion on appropriate sanctions are otherwise to be regarded as relatively arbitrary, since we cannot know what the reference is intended to describe: the opinion of the majority, the opinion of a certain segment of the public or that segment of the public with a certain opinion.
Paper II: Contradictory Expectations on Society’s Reaction to Crime. A qualitative study of how people view the objectives of society’s reaction to crime and how these objectives can be fulfilled

Several studies indicate that the public has a varying knowledge about different aspects of crime and criminal sanctions. It may be the case that survey participants who propose a certain sanction for a certain crime do so with very different expectations of the effect that the sanction in question may or should produce. And different participants might also propose quite different sanctions but based on the same intentions as to what the outcome of the proposed sanctions should produce and for whom.

Thus in order to improve our understanding of what the public views as appropriate reactions to crime, it may be considered important to examine not only the question of which sanctions the public regard as being appropriate, but also the question of why these sanctions are considered appropriate.

A plausible assumption is that what makes a sanction attractive is its ability to fulfil a desired objective of society’s reaction to crime. For example, the rehabilitative effect of a specific type of sanction makes the sanction attractive if the objective of society’s reaction to crime is rehabilitation. It thus becomes relevant to ask, first, what the desired objectives of society’s reaction to crime are and, second, how different types of sanctions are perceived as being able to fulfil these objectives. In this paper, the group interviews carried out within the framework of the Nordic project described above are analysed with the intention of developing an understanding of the participants’ views on these matters.

According to the study participants, the overarching objective associated with society’s reactions to crime is that of creating a safe society in which citizens do not need to experience fear of, or exposure to, crime. This can be achieved in part by demonstrations on the part of society which signal that (the) crime is unacceptable, and in part by directly or indirectly preventing the offender from committing further offences.

On the basis of interview participants’ statements, these objectives cannot be fulfilled simultaneously by a single sanction. Different types of sanctions have to be combined in order for the total reaction from society to be sufficient.
It emerged in the group discussions that imprisonment is the sanction that best fulfils that aspect of society’s reaction to crime that has to do with signalling society’s condemnation of the offence. Prison sentences were described by the participants as sanctions that are perceived by the public as being tangible. Unlike non-custodial sanctions, which may give the appearance that nothing has happened to the offender following the crime, a prison sentence is visible to others, making it quite evident that the offender has been punished.

The disadvantage that study participants described as being associated with a prison sentence is that it may have a counterproductive effect in relation to the offender’s resocialisation and return to society. A prison sentence must therefore be combined with sanctions that do not have a marginalising effect and that include treatment, therapy or some other form of help that offenders need in order to develop an insight into their behaviour and in order to be able to refrain from crime in the future.

This gives rise to a conflict, however. Sanctions that signal a caring attitude towards the offender were described by the participants as dulling the signal of society’s condemnation that is otherwise associated with a prison sentence. Even though resocialisation is considered a very important part of the total reaction, it must not be entirely visible to the public, otherwise the total reaction may not be considered to constitute a demonstration on the part of the society that (the) crime is unacceptable.

Thus according to the interview participants, the part of society’s reaction to crime that is visible must involve a tangible punishment for the offender, while at the same time, society’s reaction must nonetheless ensure that the offender is helped to live a well-adjusted life in society.

The aspect of the public’s attitude towards punishment that is emphasised in the public debate is for the most part that part which advocates (more) severe sanctions. It is less common for consideration to be given to the part of the public’s attitude which includes expectations that society’s reaction to crime should also serve treatment and resocialising functions.

This conflict between punishment and treatment is nothing new in the field of crime policy rhetoric. What this study indicates is that the public is more than amenable to the idea of a public discussion about how this conflict should be dealt with and considered in relation to the formulation of crime policy and penal policy.
Paper III: More sanctions – less prison? A research note on how survey participants, in their choice of reactions to crime, propose shorter prison sentences when these are combined with other sanctioning forms

In the questionnaire survey described above, it was found that the respondents proposed fewer and shorter prison sentences (see Paper I however), than would have been awarded by a court. Thus the picture that emerged, in contrast to that which would be expected on the basis of the generally accepted view, was that the participants did not want stiffer sanctions, at least not in terms of more and longer prison sentences, than would be awarded for the same crimes on the basis of existing sentencing practice.

According to the instructions provided, the respondents could propose a combination of two sanctions for each crime, but they were also informed that proposing a single sanction would be sufficient. It may be reasonable to ask whether the fact that they were given the opportunity to combine different sanctions might explain why prison sentences were not proposed more often than they were.

The question that is posed in this article is that of whether there are systematic differences in the length of the prison sentences that are proposed as part of a combination of two sanctions, by comparison with those that are proposed as a single sanction. If this were the case, it might mean that providing different response instructions to survey participants might generate results which in turn produce opportunities to draw different conclusions about the public’s attitudes about what constitute appropriate reactions to crime.

The tendency of survey participants to specifically propose a prison sentence, and the length of the prison sentences they propose, often form the basis of conclusions as to whether or not the public are in favour of “more severe” sanctions. It thus appears quite relevant to examine whether, and to what extent, the response instructions provided to survey participants may influence their response behaviour in a way that may lead to different conclusions being drawn.

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10 See for example the International Crime Victim Survey (van Dijk, van Kesteren & Smit 2007). The study examines levels of punitiveness over time by comparing the proportion who propose a prison sentence rather than community service as an appropriate sanction for a burglary. The larger the proportion to propose a prison sentence, the more punitive the population is regarded as being.
The article is based on two different data sets. The first is drawn from the survey described previously (and is referred to here as the population material), the second is a smaller data set drawn from a survey conducted among students. As has been noted, the respondents in the population material were given the opportunity to combine two sanctions in response to each crime. In the student material, half of the respondents were given the same opportunity to combine sanctions as in the population study. The other half were instructed to propose only a single sanction for each crime.

In the population material, the prison sentences that had been proposed in combination with other sanctions were compared with those that had been proposed as stand-alone sanctions. In the student material, the prison sentences were compared between those who had been given the opportunity to combine different sanctions and those who had not been given this opportunity.

No systematic differences in either the proportion who proposed a prison term or in the length of the proposed prison sentences emerged between the groups compared in either of the data sets. The differences that were found went in different directions in relation to different types of crime.

Thus the comparisons did not provide any unequivocal support for the hypothesis that the relatively small number of prison sentences and the relative brevity of the prison sentences, proposed by the participants in the population survey might be due to the respondents having been given the opportunity to combine different sanctions. The hypothesis was not refuted either, however. Thus the results do not suggest that survey participants automatically propose fewer or shorter prison sentences if they are given the opportunity to combine a prison term with some other sanctioning alternative. The choice of reactions to crime thus appears to be based on more sophisticated considerations than this (see also Paper II).

Surveys of the public’s attitudes about what constitute appropriate sanctions for crime have repeatedly shown that these attitudes are too complex to be summarized in terms of simple descriptions. How much of this complexity is allowed to emerge will depend, however, on the method employed and the instructions provided to the survey participants. Stalans (2009) argues further that surveys in which respondents are only able to propose a single sanction “have limited external validity because in the actual cases in criminal justice systems, judges often combine multiple community sanctions when sentencing offenders” (p.240), which is also the case in Swedish courts.
DISCUSSION

In the public debate, the public’s sense of justice, or the public’s attitudes about appropriate reactions to crime, are presented as a central basis for legitimizing the formulation of crime policy proposals and decisions. However, what the public’s attitudes are, and how the contents of these attitudes have become known, is seldom made clear when they are referred to in the context of crime policy rhetoric. Are references to the public’s sense of justice referring to measurable attitudes, or are they referring to an entity whose contents can only be interpreted by those with a special senseability?

Within the context of a knowledge-based crime policy, emphasizing the importance of a legitimizing ground whose contents are based on mere assumptions would appear to be rather incongruous. In this thesis it is therefore assumed that references to the public’s attitudes regarding what constitute appropriate reactions to crime are not only referring to assumptions or to a “feel” for public opinion but to an entity whose content can be specified with the help of systematic surveys. References to such surveys are rarely made, however.

A matter of choice

The studies that have been conducted within the framework of this thesis point to the difficulties associated with attempting to describe a static and universal picture of the public’s attitudes on appropriate reactions to crime.

Paper I notes the difficulties associated with attempting to summarize the variance found in the public’s attitudes towards punishment into a single description of the public’s sense of justice. There are those who feel that a long prison sentence should be awarded, those who feel that a short prison sentence is preferable, and those who feel that sanctions quite different from a prison term should be awarded, for one and the same crime. Paper II describes how society’s reaction to crime is expected to fulfil several different objectives simultaneously. A single individual may view a prison term as being necessary in order to signal that a certain act is unacceptable while at the same time feeling that a prison sentence should be avoided, since it ob-
structs the offender’s chances of returning to the life of a law-abiding citizen. As has been shown by previous research and also by studies conducted on the basis of the material used in this thesis, study participants tend to change their views on what constitute appropriate reactions to crime when they are given more information about the specific crime and about different types of sanctions.

This may be interpreted as indicating that any possible description of the public’s sense of justice will always correspond to a certain segment of the public and will be supported by the results from certain types of surveys. The assertion that the public wants harsher punishments will be supported by a certain segment of the public and by results from certain types of surveys. At the same time, opinions of other segments of the public and results from other types of surveys will better fit a description of a public that is opposed to long prison sentences and that instead advocates other measures.

The central conclusion is thus that references to a public sense of justice always require a choice to be made as to whose, and which, sense of justice it is that is to be emphasized.

It would seem reasonable to assume that those who refer to the public’s sense of justice will choose that description which lies closest to their own ideological point of departure. If one’s own ideological position views long prison sentences as an appropriate reaction to crime, public attitudes favorable towards long prison sentences will be emphasized, and vice versa. If the objective of signaling society’s condemnation of the offence/offender is considered more important (or perhaps an objective that is more easily fulfilled) than the objective of the resocialisation of offenders, then public attitudes in favor of such policies will be emphasized in the public debate. It is at best difficult to imagine that the opposite might be the case, i.e. that politicians would choose to emphasize public attitudes that pointed in the opposite crime policy, or ideological, direction to their own. In order for this choice not to be perceived as arbitrary, and out of respect for those who hold attitudes that are “discarded”, this ideological dimension should also be made visible in the public debate.

A debate in service of the public’s sense of justice

Crime policy and its consequences are something that only a minority of the population will come into direct contact with. Even so, as was noted in the introduction, public opinion on the matter has a central position in the crime policy rhetoric and is presented as an important ground for legitimizing the
formulation and practice of crime policy. As a component in the creation of a knowledge-based crime policy, it would be of value for the opinions of the public that are to function as a guide in the formulation of such policy to themselves be based on knowledge and on more balanced information. By broadening the public discussion to include ideological dimensions, e.g. of how existing crime policy and penal policy is expected to contribute to achieving the desired objectives associated with society’s reactions to crime, the public would be given the opportunity to develop informed and well-grounded opinions or senses of justice.

Paradoxically, public debates on other matters, e.g. education, health and care provision, seem to be more ideologically driven. In these areas, the debate is instead characterized by more explicit ideological arguments about the relationship between the individual and the state, about the opportunities and life-chances the individual should be given in and by society, and about the objectives of the policies being followed and what the desired effects of these policies are. The consequences of the policies formulated in these areas affect the majority of the population on a daily basis. References are rarely made, however, to the public’s opinion or to what might perhaps be labelled “the public’s sense of care or education” in order to legitimize these policies, and public opinion is even more rarely presented as the only argument for the legitimization of such policies.

The point of departure for this discussion has been that the objective of references to the public sense of justice is that of allowing the public’s attitudes towards punishment to come to expression in the legislation in this field. It is conceivable, however, that the objective is instead rather to fill the public sense of justice with a desired content, and that politicians in this way “educate” the public with regard to what it is right and reasonable to think at the current time.

It ought to be easier to placate a public that demands (or has learned to demand) longer prison sentences, for example, without any detailed reflection as to what the objectives of such stiffer sanctions are, than a public that harbors a range of different and sometimes conflicting attitudes, and that furthermore expects society’s reaction to crime to produce demonstrable effects. The choice on the part of politicians to emphasize (or to desire to produce) a simplified picture of the public’s attitudes thus becomes understandable. However, a simplified picture of this kind is a long way from the picture of the public’s sense of justice and public’s attitudes as to what constitute appropriate reactions to crime that has emerged in this thesis.
Final remarks

On the basis of the findings presented in this thesis, the public sense of justice includes a wide range of different attitudes as to what constitute appropriate reactions to crime. These attitudes are changeable on the basis of both the information and knowledge provided. With this diversity and variability, the public’s sense of justice becomes almost like a smorgasbord of opinions for politicians to choose from and use as grounds for legitimizing the formulation and practice of crime policy. For this choice to be perceived as legitimate, however, it should not be made without at the same time motivating why certain attitudes or the attitudes held by a certain segment of the public are to be emphasized. One suggestion made here is that this motivation should be based on a public debate whose complexity and nuances match those of the public’s sense of justice itself.
Introduktion och bakgrund


Frånvarande i hänvisningarna till det allmänna rättsmedvetandet är dock beskrivningar av vad som avses med detsamma. Det beskrivs heller inte hur en överensstämmelse eller en obalans mellan det allmänna rättsmedvetandet och lagstiftning eller rättspraxis kan avläsas. Utan sådana beskrivningar ris-kerar hänvisningar till det allmänna rättsmedvetandet och dess innehåll att bli relativt godtyckliga.


Det abstrakta rättsmedvetandet fångades upp via telefonintervjuer med enkla frågor om huruvida straffen i Sverige var för stränga eller för milda. Det informerade rättsmedvetandet undersöktes med hjälp av postenkäter där sex olika brott beskrevs i vinjettform. Deltagarna ombads ange vad de trodde att straffet skulle bli i en domstol, vad de själva ansåg att straffet skulle bli och slutligen vad de trodde att folk i allmänhet ansåg att straffen skulle bli. Det konkreta rättsmedvetandet undersöktes avslutningsvis med en kombination av enkäter och gruppdiskussioner. Gruppdiskussionsdeltagarna fick först
svara på samma enkät som användes i postenkätundersöknings. Därefter fick de se en filmatiserad version av en rättegång rörande ett av de sex fallen i enkäten. Efter detta fick de ange vilket straff de trodde respektive ansåg skulle dömas ut för just det fall de sett på filmen. Härefter följde de modera-
torledda diskussionerna. I diskussionerna behandlades för- respektive nack-
delar med att döma ut olika typer av påföljder. Avslutningsvis fick deltagar-
nå återigen ange i en enkät vilket straff de trodde respektive ansåg skulle
dömas ut för det fall de tidigare sett på rättegångsfilmen.

För att kunna jämföra svaren i enkäterna med praxis tillfrågades nio domare
från tre olika tingsrätter vilka påföljder som skulle ha dömts ut av en domstol
i de sex olika fallen.

Resultaten av telefonundersöknningen, postenkätundersöknings samt enkät-
svaren från gruppdiskussionsundersökningarna presenteras i rapporten
"Svenskarnas syn på straff" (Jerre & Tham 2010). Sammanfattningsvis så
svarede majoriteten av deltagarna i telefonundersöknningen att straffen i Sve-
rige är för milda och borde vara strängare. De straff som deltagarna i posten-
kätundersöknningen ansåg borde dömas ut strängare än vad de trodde
att en domstol döma ut. De trodde vidare att folk i allmänhet skulle döma lika-
dant som de själva. När deltagarnas egna svar jämfördes med tingsrättsdo-
marnas bedömningar visade det sig dock att majoriteten av deltagarna inte
angett längre fängelsestraff än tingsrättsdomarna. De som deltog i gruppdisk-
ussionsundersökningarna blev generellt sett minde benägna att döma ut
långa fängelsestraff efter att de sett rättegångsfilmen, fått mer information
om innebörden i olika typer av påföljder och sinsemellan fått diskutera för-
och nackdelar med olika typer av påföljder (se Figur 1).

De tre studierna

Utgångspunkten för studie I är den stora spridningen i svaren i postenkät-
undersöknings. Det som problematiseras är hur ett allmänt rättsmedvetande
ска kunna beskrivas när andelen som anger ett fängelsestraff på minst fem år
är lika stor som andelen som anger att en helt annan påföljd än fängelse bör
dömas ut.

I studie II analyseras innehållet i gruppdiskussionerna. Frågan här är vad
deltagarna anser vara syftet med samhällets reaktion på brott och vilka typer
av påföljder som uppfattas kunna uppfylla dessa syften. Enligt deltagarna
förväntas flera olika syften uppfyllas samtidigt. Samhället ska exempelvis
signalera att vissa handlingar inte accepteras och samtidigt måste gärnings-
personen (âter-)anpassas till samhället och fås att inte begå fler. Fängelse är

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den påföljd som enligt deltagarna tydligast signalerar samhällets fördömande, ett fängelsestraff beskrivs dock som kontraproduktivt i förhållande till gärningspersonens återanpassning till samhället. En påföljd som istället gynnar gärningspersonens återanpassning förmår dock inte, enligt deltagarna, signalera samhällets fördömande av brottet. Samhällets reaktion bör alltså utgöras av kombinationer av påföljder som i ”rätt” balans uppfyller sinsemellan motstridiga syften.

Majoriteten av deltagarna i postenkättdeltagarna angav alltså kortare eller lika långa fängelsestraff som tingsrättsdomarna. Majoriteten valde också att kombinera fängelse med andra former av åtgärder, i huvudsak behandling av gärningspersonen eller ekonomisk kompensation till brottsoffret. Som en reaktion på att deltagarna framstod som mindre punitiva än vad den gängse bilden gör gällande väcktes frågan om, och i så fall hur, det faktum att deltagarna tillåts kombinera två olika typer av påföljder kan ha påverkat dem när de skulle bestämma straff för de sex olika brotten. En teori var att deltagarna angivit kortare fängelsestraff för att kompensera för den straffande dimensionen i den så kallade ”tilläggsåtgärden”. Det är alltså möjligt att deltagarna skulle angett längre fängelsestraff som kombinationsmöjligheten inte givits.

I studie II jämförde de postenkättdeltagare som kombinerat fängelsestraffet med andra åtgärder och de angett fängelse som enda påföljd. Enligt resultaten hade de som kombinerat fängelsemed andra åtgärder inte angivit systematiskt kortare straff än de som angett fängelse som enda påföljd.

Inom ramen för studie III genomfördes också en mindre undersökning bland kriminologistudenter. I denna undersökning gavs hälften av deltagarna möjlighet att kombinera olika påföljder och hälften gavs inte denna möjlighet. Inte heller här framstod några systematiska skillnader mellan grupperna med avseende på hur långa fängelsestraff deltagarna angivit.

De skillnader som fanns gick i olika riktningar beroende på vilket brott det var som bedömdes. I ljuset av resultaten i studie II framstår det inte heller som att olika påföljder helt enkelt kan ersätta varandra.

Diskussion

I enighet med vad som framkommit i tidigare forskning så pekar dessa tre studier på att det allmänna rättsmedvetandet, när det kommer till vad som utgör lämpliga reaktioner på brott, är långt mer nyanserat än vad som görs gällande i den offentliga debatten.
Den spridning och variation som framträdar gör att det allmänna rättsmedvetandet såväl kan tillskrivas krav på strängare straff som uppfattningen att andra åtgärder än fängelse är att föredra. Olika beskrivningar av det allmänna rättsmedvetandet kommer stämma in på olika delar av allmänheten och med resultat från olika typer av undersökningar. Den som hänvisar till det allmänna rättsmedetandet, gällande inställningen till vad som utgör lämpliga påföljder för brott, bör alltså samtidigt kunna motivera varför just den refererade inställningen är den som bör ges utrymme framför andra.

Jämfört med andra politikområden är det endast en mindre del av allmänheten som i sin vardag kommer i direkt kontakt med konsekvenserna av kriminalpolitikens utformning. Om kriminalpolitiken både ska vara kunskapsbase-rad och ligga i linje med allmänhetens rättsmedvetande bör allmänheten ges möjlighet att skapa sig ett välunderbyggt och välinformerat sådant rättsmedvetande. Ett förslag som framförs här är att den offentliga kriminalpolitiska debatten förs på ett sådant sätt att dessa konsekvenser blir kända för allmänheten, att det framgår både hur och varför kriminalpolitiken ska utformas på ett visst sätt – förutom att det ligger i linje med ett visst innehåll i det allmänna rättsmedvetandet.
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The studies included in this thesis are based on data that were collected within the framework of a Scandinavian collaborative project focused on the public’s views on punishment in the Nordic countries (Jerre & Tham 2010). This collaboration was established in 2006, when a proposal was made to study public attitudes towards punishment in the five Nordic countries. This followed the publication of a Danish study on the Danes’ views on punishment (Balvig 2006). The Danish study examined attitudes towards sanctions for offences that could lead to a prison term of a couple of months. The focus of the Nordic collaborative project was directed at sanctions for somewhat more serious offences, but the same methods were used as in the Danish study. The data collection began in the different countries in 2009 and the first results were published in the autumn of 2010. The project leaders in the respective countries were Flemming Balvig, in Denmark, who had also been responsible for the original Danish Study, Leif-Petter Olaussen in Norway, Henrik Tham in Sweden, Helgi Gunnlaugson in Iceland, and Aarne Kinnunen and Tapio Lappi-Seppälä in Finland.

Thus the Swedish study employed the same design as the earlier Danish study, which involved investigating public attitudes towards punishment by means of telephone surveys, postal questionnaires and group discussions. The studies included in this thesis are based on analyses of data from the postal questionnaires (Paper I and III) and from the group discussions (Paper II). Here the methods and materials used are described and somewhat problematized.

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11 The data that were not collected in connection with this project were the student data that are employed in Paper III.
Methods

The postal questionnaire survey

On September 7th, 2009, questionnaires were posted to a random sample of 3000 individuals aged between 18 and 74 from the whole of Sweden. Two reminders were sent and the data collection process was concluded on November 11th. The distribution of the questionnaires was administered by the company Synovate (now IPSOS). To encourage respondents to complete the survey, the questionnaire stated that if they participated in the survey, contributions would be made to the children’s charity BRIS (Children’s Rights in Society) up to a maximum of 20,000 SEK, depending on the number of respondents who returned the questionnaire.

The postal questionnaires began with a few short paragraphs containing information about different types of sanctions. Following this introduction, six relatively serious offences were described in the form of vignettes (presented later on in this Appendix). Each vignette was just under half an A4 page in length.

The cases were based on real crime situations drawn from Denmark, where they had been selected as typical examples following contacts with experts, primarily in the form of defence lawyers. The first case involved relationship violence resulting in injuries requiring hospital treatment, the second the smuggling of 250 g of heroin, the third the robbery of a shop during which the offender used repeated threats with a knife to force the shop assistant to open the safe, the fourth a rape during a business course at a hotel, the fifth a bank employee who had embezzled 350,000 SEK from an elderly client, and the sixth an outdoor assault in town late at night which resulted in serious facial injuries.

Following the description of each crime, the respondents were asked to select, from a list of sanctioning alternatives, (presented at the end of this appendix) the sanction that they believed would be awarded by a court, what they themselves thought would constitute an appropriate sentence and what they believed people in general would view as an appropriate sanction. The analyses presented in this thesis are based only on the question relating to what the respondents themselves regarded as constituting appropriate reactions to the crimes described in the questionnaire. The participants were instructed to select a maximum of two sanctions per crime, and were told that one was sufficient.

The list of sanctions was developed on the basis of a number of considerations relating to the comparability of the sanctions awarded in the different
countries included in the project. Considerations were also made of the need to have a functional scale, with regard to both the issue of analyzability and the situation of the respondents, and also to provide the respondents with an adequate number of alternatives. The highest category on the prison sentencing scale was five years or more. This was decided following a consideration of sentence lengths in all five of the countries included in the project. One reason for not including even longer prison terms was to avoid a very severe sentence for a certain type of crime in one of the countries skewing the entire sanctioning scale for the other countries. Drug offences can serve as an example since sentences for drug offences are much longer in Sweden than in Denmark. Sentences of over five years are also very unusual, and in Sweden account for only two percent of all prison sentences. Leaving the most severe category of prison sentences open at the upper end of the scale, however, nonetheless allows the respondents to express a desire for a long prison sentence. The intention has thus been to construct a scale that is relevant from a judicial perspective while at the same time providing a realistic framework on the basis of the prevailing legal cultures in the five Nordic countries.

The conclusions drawn in the thesis would probably not have been affected to any significant extent if the prison sentencing scale included in the questionnaire had been longer. The participants would certainly have been given more opportunity to specify very long prison terms, but the level of variance in their responses would then probably have been even greater (see Paper I), which would provide an even stronger basis for the arguments that are developed in the thesis.

Eight different versions of the postal questionnaire were distributed. These different versions described the offenders in the crime vignettes in different ways. The factors that varied were the offenders’ sex, ethnic background and childhood conditions, the number of prior convictions and whether or not they were substance abusers. Of these factors, the number of prior convictions and substance abuse are the most relevant from a legal perspective.\footnote{According to Swedish law, the judge can increase the severity of the sentence if the offender has prior convictions. If the individual is a drug or alcohol abuser, this may be cause for a sentence that includes treatment. The issues of sex and ethnic background have been discussed in both the research and the public debate as grounds for discrimination in the criminal justice system, e.g. in the sense that a crime might be judged to be less serious if the offender is a woman and as more serious if the offender is an “immigrant” (SOU 2006:30, Diesen 2005). Varying the offenders’ childhood conditions is of interest in order to examine whether a difficult childhood, for example, is viewed as an explanation for involvement in crime in adulthood and may thus lead to the crime being judged less harshly. The question of whether childhood conditions should be seen as an explanation or as an excuse for crime has long been the subject of debate, with a recent example being found in a crime policy debate that was conducted in one of the large Swedish daily broadsheets (Svenska Dagbladet) during the spring of 2010 (Sarnecki 2010 March 6, Hägglund 2010 April 1). Not all of the factors}
These different variants of the vignettes are not presented separately in this thesis, and the data have been analysed as a whole. The eight variants of each crime scenario are equally distributed in the data on which the results are based.\textsuperscript{13}

\textit{To be specific or to be general, that is the question}

The advantage of questionnaire or telephone surveys is that it is possible to use a large sample that may be representative of the population as a whole in relation to certain demographic factors. Further, an advantage of using the vignette method is that the responses of all participants are based on the same cases. This increases the likelihood of obtaining a high level of internal validity. The method also produces an inbuilt control for random variations, which serves to strengthen the level of reliability. On the other hand, the level of external validity, i.e. the extent to which the results can be generalised, may be questioned (Koeske 1994). This is because the participants have only adopted a position in relation to the specific cases included in the study. The question is, what conclusions can actually be drawn about the public’s sense of justice, or about what the public views as constituting appropriate reactions to crime.

The results may thus be criticised for being so specific that it is difficult to draw any conclusions regarding general or universal attitudes. On the other hand, in surveys that employ very general questions, such as “Are sanctions too severe?”, the results become so general that it is difficult to draw any concrete or specific conclusions. The ideal answer would be to find some kind of middle option. One such option might be to have the public assess a broad range of different cases, or of variants of the same cases. On the basis of these assessments, general tendencies in public attitudes might be able to emerge. In the current study, which included six concrete cases, there was a substantial level of external non-responses (see further below), it is reasonable to assume, however, that the level of non-response would have been even greater if the participants had been asked to read and assess even more cases.

\footnote{The extent to which the participants in the postal survey who were asked to propose sanctions for offenders with prior convictions have proposed different sanctions from those proposed for offenders with no prior convictions will be analysed in a separate study (Jerre, forthcoming).}
A few words on the level of non-response

The number of respondents who completed the questionnaire was rather small, 1057 (or 35 percent of the sample). Despite the low response frequency, the sex and regional distributions among the respondents were representative for the population as a whole. There was an overrepresentation among the respondents of older individuals and those with higher levels of educational achievement. Thus young people and those with at most a compulsory education were somewhat more common than other groups among the non-respondents.  

Institutions and agencies that work to produce statistics based on questionnaire surveys have experienced falling response frequencies over time. One interpretation of this phenomenon has been that the Swedish public is experiencing “survey fatigue”. It is also conceivable that the use of postal paper questionnaires has quite simply become outdated and is perceived as troublesome. Response frequencies might be higher, perhaps, using online-questionnaires that can be completed and returned on-the-go by computer, tablet or smartphone.

One content-related explanation for the low response frequency in the current study may be that the questionnaire focuses on questions that are difficult from an ethical perspective, which may deter people from participating. Remarks made by individuals who declined to participate in the Norwegian survey stated that there was too much text to relate to (see also above). Questionnaires with large numbers of response opportunities and only a small amount of text produce higher response frequencies than questionnaires with few response opportunities and a large amount of text, such as that employed in the current survey. In this regard there is a tension between two different methodological considerations. In order to enable participants to make informed assessments, extensive descriptions are required, although this also appears to increase the risk for non-response.

A high level of non-response does not necessarily mean that the non-response is skewed. A high level of non-response does, however, indicate a need to carefully consider what significance the non-response might have for interpretations of the results, and what differences there may be between non respondents.

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14 According to Synovate, the tendencies found among the non-participants were the same as in other surveys.
16 This was discussed on Radio Sweden on June 1, 2010, by Bengt Swensson, Professor emeritus in statistics at the Universities of Uppsala and Örebro (http://sverigesradio.se/sida/artikel.aspx?programid=1650&artikel=3742339).
those who completed the questionnaire and those who chose to decline to participate in the study (Groves et al. 2006).

In the current study, older individuals and those who had completed higher education chose to participate to a greater extent than younger respondents who had completed no more than compulsory or further education. It is possible that there are certain differences with regard to what these groups may deem to constitute appropriate sanctions for the crimes described in the questionnaire.

In the report “Svenskarnas syn på straff” (Jerre & Tham 2010), the central question addressed is that of how large a proportion proposes a more severe sanction than the one that would be awarded by a court. Over half of the study participants proposed shorter prison sentences than the panel of judges, or no prison term at all. For the results to have been reversed, over half of those who did not respond to the questionnaire would need to have proposed a longer prison term than the judges’ panel. In Paper I comparisons are made of the response patterns of younger and older respondents respectively, and of those with and without higher education. No systematic differences are found between the groups compared. This is not however to say that those who chose not to participate, irrespective of their age and level of education, do not differ from those who completed the questionnaire.

Previous research indicates that postal survey participation is linked to interest in the subject of the survey (Groves, Singer & Corning 2000, Groves, Presser & Dipko 2004). Nothing is known about the nature of the correlation between interest in crime policy questions and attitudes about what constitute appropriate sanctions for crime. In a study of the Swedes’ levels of interest in different policy areas, it was found that those who most often (20 percent) reported being very interested in crime policy were those with party sympathies for the liberals or the conservatives. In both these parties, women reported higher levels of interest than men, and younger individuals reported

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17 In order to make such a comparison possible, nine district court judges were asked to state what sanctions would be awarded for the crimes described in the questionnaire. The judges were drawn from three different district courts, two of which were located in large cities and the third in a medium sized city. Three judges from each district court completed a form similar to that employed in the postal questionnaire survey. They were asked to assess which sanction and what level of possible monetary compensation would have been awarded for each of the crimes described, and to state what type of offence the crime would have been defined as on the basis of existing legislation. In four of the six cases described, all of the judges stated that the offences would have resulted in a prison sentence, and in the remainder of the cases all but one judge stated that the offences would have resulted in a prison sentence.

18 According to Synovate, experience from previous analyses of non-response indicate that it is primarily due to chance factors and that those who decline to participate are evenly distributed across the population (e-mail from Synovate 07/04/2010).
higher levels of interest than their older counterparts (Demker & Duus-Otterström 2007). It is far from clear what this might say about a possible correlation between levels of interest and attitudes towards punishment, or about possible differences between those who participate in studies of the kind discussed in this thesis and those who choose not to do so. A study by Rüdig (2010) found no systematic differences in political attitudes between participants and non-participants, even with a response frequency that was below 40 percent. Whether there are systematic differences in levels of punitiveness between those who choose to participate in studies of this kind, and those who choose not to do so, would appear to be an important question for future research.

The group discussions

The group discussions were conducted at the Stockholm premises of the company Synovate. For practical, financial and time-related reasons, the sample was restricted to people living in the Stockholm area. In order to recruit participants, a telephone survey was conducted among individuals from an existing survey panel maintained by Synovate. The same questions were asked as in the national telephone survey that had been conducted within the framework of the Nordic project. In order to ensure that the participants would not be significantly different from the participants in the large telephone survey with regard to their attitudes towards punishment, they were matched with the latter survey participants on the basis of how they had answered the following questions: “Do you agree completely, in part or not at all that: 1, sitting in prison can be compared with a stay at a hotel, the inmates have far too good a time of it; 2, I am generally in favour of longer prison sentences.” They were also asked the question “Do you think that, in general, sanctions in Sweden are too mild/about right/too severe?” Tables 1 and 2 present a comparison of the response distributions among the participants in the national telephone survey and the group discussions respectively.

A total of 120 individuals were selected. The participants were divided into ten groups of twelve. The groups were comprised of equal numbers of men and women and were divided into three age categories, 18-29, 30-49 and 50-74.

19 From the list of possible participants, the selection process first excluded those who had an education in, or who worked in the fields of psychology, journalism, marketing or law. Anyone who had participated in a focus group with Synovate during the prior six months was also excluded.

20 One of the groups had one person missing at the time of the group interview.
Table 1. Response distribution on recruitment questions among group-discussion participants (n=120) and in the national telephone survey (n=1013).

<table>
<thead>
<tr>
<th></th>
<th>I am generally in favour of longer prison sentences</th>
<th>Being in prison can be compared with a stay at a hotel, the inmates have far too good a time of it</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Telephone interview</td>
<td>Focus group</td>
</tr>
<tr>
<td>Agree completely or in part</td>
<td>59</td>
<td>66</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>Partly or completely disagree</td>
<td>27</td>
<td>24</td>
</tr>
</tbody>
</table>

Table 2. Response distribution for the question on whether sanctions in Sweden are too severe among group-discussion participants (n=120) and in the national telephone survey (n=1013).

<table>
<thead>
<tr>
<th></th>
<th>Do you think that, in general, sanctions in Sweden are …</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Telephone interview</td>
</tr>
<tr>
<td>Too mild</td>
<td>69</td>
</tr>
<tr>
<td>About right</td>
<td>29</td>
</tr>
<tr>
<td>Too severe</td>
<td>2</td>
</tr>
</tbody>
</table>

The group discussions were conducted in a room designed specifically for studies of this kind. The discussions were video-recorded and it was also possible to follow them live via a video link to an adjoining room. In this way it was possible to obtain an understanding of the way the discussions were conducted and of the dynamics within the groups. The content of the discussions was transcribed by Synovate. I later also produced a second, supplementary transcription on the basis of the video recordings. As a result of technical problems, the video recordings, and thus also the transcriptions, for two of the twelve groups are missing from the data set.\(^{21}\)

\(^{21}\) The analyses in Paper II are therefore based on ten of the twelve groups.
The group discussions were designed so that the participants completed the same questionnaire as in the postal survey. That is to say that they were asked to read six different descriptions of crimes and then state what sanction they themselves thought should be awarded, what sanction they thought would be awarded by a court, and what they thought people in general would regard as the correct sanction. Thereafter, they watched a 15-30 minute long film of a trial resulting from one of the cases. There were four filmed trials in all, relating to the drug smuggling, robbery, rape and street violence cases.  

Once they had seen the film, the participants completed a second questionnaire, in which they were asked to state what sanction they thought should be awarded, and what sanction they believed would be awarded for the case they had just seen in the film. The moderator-led discussion was then started, with the focus being directed at the case that had been dealt with in the filmed trial. When the discussion had been concluded, the participants were once again asked to complete a questionnaire asking them what sanction they thought should be awarded, and what sanction they believed would be awarded for the case they had seen in the film and then discussed.  

The films  

The films were made in Denmark in a courtroom used in the law programme at Copenhagen University. The film manuscripts were based on the vignettes used in the postal surveys and were written with the intention of producing cases that were as realistic as possible. The manuscripts were translated by me from Danish to Swedish, and the films were then dubbed in Swedish.  

The roles of judges, prosecutors and defence lawyers were played by individuals from the respective professions. Two lay-judges, who do not speak during the films, were played by actors. This was the also case with the witnesses, including the injured parties/crime victims. The participants were the same in all four films. The defendant was also played by the same individual in all four films, so that the assessments would be based on the crime and not on the particular individual who had been chosen to play the accused. The actor was a male, was of an age that should have been estimated to be around 25-30, and was of “Scandinavian appearance”. In all four cases, the defendant in the film was a person with no prior convictions. In two of the cases, it could be seen that the defendant was a problem drug user.  

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22 The number of films was limited to four for financial reasons.  
23 In a larger study, it would of course have been of interest to make different versions of the same trial film and to vary, for example, the individual who played the accused. This was not possible in the current study, however.
The discussions

The participants were informed that the discussion would be about the advantages and disadvantages associated with awarding different types of sanctions. Each type of sanction was discussed by itself. A more detailed description of the sanctions than that included in the questionnaire response form was read out by the moderator. For prison sentences, for example, this included information about, amongst other things, socialising with other inmates, punishments for misbehaviour, prison leave and reoffending. Each sanction was first discussed in general terms and then specifically in relation to the case that had been shown in the film. The discussion of each sanction concluded with the participants being encouraged to summarise the advantages and disadvantages that had been discussed in relation to the sanction in question. The objective of the discussions was not for the group participants to arrive at a shared point of view. Instead it was to obtain a picture of how the participants thought about and discussed sanctions, to “…stimulate a discussion that functions to simulate a microcosm of the larger community…” (Albrecht, Johnson & Walther 1993 pp. 58-59).

Once all of the sanctions, including mediation and financial compensation, had been discussed, the participants were asked for the third time to fill in the questionnaire that only related to the case that they had previously seen in the filmed trial. If time allowed, the moderator was able to raise questions such as whether participants had changed their assessments during the course of the session, and what they had taken into consideration when making these assessments. The participants who wanted to do so were able to write their names on a list in order to be sent a copy of the research report.

The discussions were led by a professional moderator from Synovate. There are both advantages and disadvantages associated with someone other than one or more of the researchers conducting and moderating the interviews. For the researchers themselves, it may be a disadvantage not being present in the room, and thus not being able to develop a sense of unspoken signals and changes in the atmosphere of the discussion. Nor can the researcher direct the focus of the discussions at aspects that are of particular interest to the project and encourage the participants to go into these in more depth.

On the other hand, a potential advantage of having someone who is not linked to the project as moderator is that it may possibly reduce the risk of the participants consciously formulating their answers in the way that they believe the researcher wants them to, or in quite the opposite way. If the researcher assumes the role of moderator, there is also a risk that he or she will focus attention on, and reinforce, certain types of comments more than
others, which may send a signal as to which types of statement the researcher finds most interesting (Albrecht et al. 1993). There may, however, still be a desire among participants to answer in a way that they think the moderator or someone else in the group expects.

Group dynamics constitute an important part of the method, and such processes occur irrespective of who leads the discussion. However, it is less easy to object that the researcher might steer the discussion in such a way as to produce a confirmation of a priori hypotheses if the moderator is a person who is neutral in relation to the objectives of the research project. In this case, the researchers were able to follow the discussions live on a television screen. Towards the end of the discussions there was also an opportunity for the moderator to check with the researchers as to whether anything needed to be added prior to concluding the session.

Materials

The vignettes

In order to provide readers with the opportunity to develop their own view of the relevance of the cases that the participants were asked to assess (see Gould 1996), the vignettes that were included in the questionnaires, together with the response form that the participants were asked to complete following each offence description, are presented below.

Case no. 1

Mats and Anne are married and have lived together for six years. They have a four-year-old daughter. There have been problems in their marriage during the past year and they have been arguing increasingly often. They decide to try and talk through their problems. They choose a weekend to be alone together and organise a babysitter. As early as the Friday, however, they fall out and it develops into a violent argument. Mats leaves the apartment in anger and meets some friends in town. Anne is sad about how the evening has developed but does not want to stay at home by herself. She therefore also leaves the apartment after a short time in order to be with friends.

Over the course of the evening, Mats starts to regret that they have missed the opportunity to talk things through. He therefore phones Anne at home several times, but she is not there. Mats also tries to ring Anne on her mobile, but gets no answer, and Anne does not call back. Mats goes back to the apartment at one in the morning.
Anne comes home at around two. Mats wants to know where she has been. Anne says: “I don’t have the energy to talk to you now.” Mats wants to talk things through, however, and he wants to know where Anne has been. Anne continues not to answer Mats’ questions and she doesn’t want to talk to him. Mats starts to experience feelings of jealousy because Anne doesn’t want to talk about where she has been. Mats is also angry that Anne doesn’t seem to want to talk about their problems. When Anne still doesn’t want to answer Mats’ questions, he starts to accuse her of being unfaithful. Anne gets angry and they argue loudly and accuse each other of infidelity. Mats becomes increasingly angry.

At some point, Anne says that it would be better if they split up. Mats now becomes so enraged that he hits Anne hard in the chest. Anne falls to the ground. Mats kicks Anne twice in the back. Anne tries to fend him off with her hands, but Mats kicks her again, kicking her in the side and kicking her hands, and he punches her again, this time in the back of the head. Anne gets to her feet and shouts that it’s now definitely over. She then runs out of the apartment.

Anne goes to the hospital, where she is given an examination and x-rayed. Anne has bruises to her chest and back, and for the next four to five days she suffers from pain in her back, ribs and kidneys. Two of the fingers on her right hand were also broken. Anne applies for a divorce and the couple separate.

**Case no. 2**

Anders has received an offer to earn 20,000 SEK. He is to travel to Madrid in Spain and bring a package containing heroin back to Sweden. Anders is experiencing major financial problems.

He had previously told a drug dealer he knows that he had got into financial difficulties due to the fact that he has no money. After a day or so, the dealer told him about a job that could give him 20,000 SEK.

Anders thinks that it sounds like easy money and given the open borders he feels sure that there won’t be too many controls.

Anders collects the heroin in a bar in Madrid. He has been given half a bank note and told to show this to a man who has the other half of the same note. Anders has never met the man before, but the two halves fit and Anders is given the heroin. In the hotel room, he makes sure that it is really heroin that he has been given. The next day he takes the flight back to Arlanda airport. The heroin is packed in four small bags. Altogether the four bags contain a total of 250 grams of heroin, which corresponds to approximately 25,000 doses for a heroin user. At home, before travelling to Madrid, Anders had made a hole in a pair of old shoes and placed an insole over it. He puts two bags in each shoe and has the shoes on throughout the journey back to Sweden.

46
Once Anders has picked up his luggage in the arrivals hall at Arlanda, he walks through the green channel for passengers with nothing to declare. He is tense, and one of the customs officers gets suspicious because he seems nervous, and because his packed shoes mean that he is walking a bit strangely. The customs officer waves him over for control and goes through Anders’ luggage but finds nothing. Anders is nervous and sweating. The customs officer asks for Anders’ jacket and shoes and then finds the four packages of heroin. Anders is then taken into custody by the police.

Case no. 3
On a Tuesday evening, just after 6 pm, Lars goes into a shop wearing a hood that covers his head and face with the exception of his eyes. The shop assistant is on her own in the shop at the time. When Lars gets to the counter, he pulls out a breadknife and holds it threateningly towards the shop assistant.

“Give me the money!” he shouts. The shop assistant does not react straight away, and Lars therefore runs behind the counter and holds up the knife in front of her. “Open the till – give me the money!” Lars shouts, and he pushes the shop assistant against the counter. The shop assistant gets the till open, but it contains only 1,000 SEK in notes and coins. Lars then takes the notes with one hand and at the same time as he holds the knife threateningly in the other and says: “I want more money! Where is the rest of the money?”

The shop assistant explains that the rest of the day’s takings are in a safe in the rear of the premises, which she does not have the code to. Lars grabs the upper arm of the shop assistant at the same time as he holds the knife in his right hand. He forces the shop assistant into the rear of the premises where there is a safe bolted to the floor, with just a narrow slit to post the money through. There is a key pad on the safe for keying in the code. Lars points the knife at the shop assistant and shouts: “The code!” “I don’t know it,” the shop assistant says again. Lars moves a step closer and points the knife at the shop assistant. “The code!” he shouts again.

The shop assistant then keys in the code and opens the safe. Lars takes a wad of notes and a bag of coins and runs out of the shop. In total he gets away with 16,500 SEK.

Case no. 4
Jenny and Martin do not know each other, but they work at the same firm. They meet on a business course that is held on Friday and Saturday at a hotel. After dinner on the Friday evening they dance a couple of dances together and when the music stops at about 2 a.m. they decide to have a drink in the hotel bar.
The bar is already closed however and they therefore go off towards their hotel rooms, which lie on different floors. On the way up, Martin asks if he can give Jenny a hug. Jenny says yes and they hug each other. When they move off, Martin offers Jenny a beer in his room. Jenny accepts and they go together to Martin’s room.

In the room, Jenny sits in an armchair and Martin sits on the bed. The atmosphere is good and they talk about work and drink a couple of beers. Then Martin comes back after going to the toilet and goes up to Jenny, leans over her and starts to kiss her. Jenny says that she doesn’t want to. She takes hold of his hands and tries to push them away. Martin ignores her rejection, however. He pulls off her blouse and opens her bra, and he touches and kisses her breasts while Jenny tries, without success, to push him away. Jenny gets to her feet and says that she wants to leave, but Martin takes hold of her and pulls her to the bed.

Jenny protests and says that Martin should let her go. As if he hasn’t heard her protests, Martin pulls off Jenny’s trousers, underwear and blouse. He pushes her down on the bed and lies on top of her, holding her down. At the same time, he gets his own trousers off, presses himself against Jenny and has brief vaginal intercourse with her. Once he has ejaculated, he withdraws and gets up from the bed. Jenny runs into the toilet, wipes herself off quickly with a towel and puts her trousers and blouse back on. She then gathers up the rest of her clothes and immediately leaves Martin’s room.

Early on Saturday morning, Jenny rings her sister and tells her what has happened. The sister takes Jenny to the Centre for raped women at the South Stockholm Hospital where Jenny is given an examination. No physical injuries are found, but Jenny is in shock, and is very upset and scared. On Wednesday, four days after the rape took place, Jenny reports it to the police.

Case no. 5
Elsa is 39 years old and has been employed by a large bank for fifteen years. Over recent years she has advanced to become a highly trusted employee. She has had a series of senior positions. For the past ten years Elsa has been a private advisor specialising in elderly clients with private fortunes. She has built up a special relationship with many of the clients whom she has advised over the years and these clients therefore have great confidence in the advice she gives.

Over the course of a two year period between May 2006 and June 2008 she has committed the offence of breach of trust against a principle by establishing thirteen false client accounts through which she has herself routinely accumulated a total of just under 28 million SEK. The money has immediately been invested in shares. She has conducted these transactions through another bank. Her bank has suffered losses of approximately 5 million SEK.
Further, in her capacity as private advisor to Mrs. Elna Nielsen (aged 82), she has committed gross embezzlement by having acquired and made use of slightly under half a million SEK from Mrs. Nielsen’s account between January 2001 and May 2003.

In addition, as private client advisor to social services officer Kristin Peterson, she has committed gross embezzlement on twelve occasions between August 2003 and October 2005 by using approximately 350,000 SEK from the latter’s account.

Finally, during the period between 2005 and May 2008, she has on five occasions unlawfully withdrawn and used a total of just under 40,000 SEK in fees from different client accounts. These fees should have been placed in the accounts that the bank itself had set up for this purpose.

Case no. 6
Hans is on his way home from a party at 2 a.m. Hans has had an argument with his girlfriend and left the party as a result, together with an acquaintance, Klas. Hans and Klas talk about the incident, and Hans is both upset and angry about his girlfriend’s behaviour.

Hans and Klas head home together through town and on the way they stop off at a grill to get something to eat. They stand outside the grill to eat and Hans goes in to go to the toilet. On the way back out he buys a coke.

When he comes back out, Klas is gone. Hans looks for Klas and walks up and down in front of the grill. Olle and Jens are sitting a little way away. They have also been to the grill and are now sitting and eating. Olle and Jens are talking and laughing.

Hans doesn’t know either Olle or Jens. He can’t hear what they are saying, but his perception is that it is him that they are talking about and laughing at. He keeps looking for Klas and starts to become impatient and irritated that Klas has simply left. He goes over to Olle and Jens to ask whether they have seen Klas.

Olle and Jens are in the middle of a conversation, so Olle just turns his head towards Hans and says a brief: “Nope”, after which they continue their conversation and ignore Hans. Hans now becomes angry and grabs Olle’s arm and says: “You’ve got no reason to be so condescending towards me.” Olle tries to twist his arm free. Hans then punches Olle on the side of the head. The he hits Olle on the side of the head with his coke bottle so that it breaks. Olle falls, and when he’s lying on the ground, Hans takes a step back and kicks Olle in the face, and then stamps on one side of his face, just in front of his ear. Hans then runs off.
Olle suffers serious cuts to the corner of his mouth and to his scalp (which require medical attention). He also suffers a broken nose and cheekbone. Olle also has a concussion, but no lasting injuries.

The response form

Different forms of sentence

Fines, fixed amount
Fines are specified in the amount of at least 200 SEK and at most 4,000 SEK.

Day fines
Day fines take the seriousness of the crime into consideration and also the financial situation of the person convicted of the crime. The smallest number of day fines that can be awarded for a crime is 30, and the largest is 150.

Suspensiond sentence
If a person is awarded a suspended sentence, they do not go to prison provided that they behave themselves for a period of two years. This sentence can be combined with day fines or community service.

Probation
Probation is like a suspended sentence, but the probationary period is three years, and the convicted individual is placed under supervision for the first year. Restrictions can be placed on the convicted individual’s way of life. If the sentence includes some form of treatment plan, e.g. for alcohol or drug abuse, the individual must complete the treatment program.

Community service
Community service involves between 40 and 240 hours of unpaid work in a voluntary association, organisation or church. The convicted individual must consent. Community service is awarded in addition to a suspended sentence or probation. For youths, the sentence is instead called youth service, and is shorter.

Electronic monitoring
Prison sentences of up to six months may be served outside prison. This is done by means of intensive supervision by electronic monitoring combined with the convicted individual being prohibited from leaving his or her home other than at specified times, e.g. in order to work.
**Prison**
Prison means that the convicted individual is placed in a prison service institution. The prison may be either closed or open, in which case there are no walls around the institution. The length of the sentence can range from fourteen days to several years, depending on the crime for which the person has been convicted.

**Treatment for the offender**
For adults, treatment outside prison usually means substance abuse treatment in a treatment institution. This can take place as part of a prison sentence or within the framework of probation. Youths under the age of 21 may be given treatment in the form of a range of programs focused on e.g. substance abuse, conflict resolution or job training.

**Mediation**
Mediation is not a punishment but rather an offer to the offender and the crime victim to meet together with a mediator. Mediation is voluntary, it should take place in the interest of both parties and the goal is to reduce the negative consequences of the crime.

**Financial compensation for the crime victim**
Financial compensation is not a punishment. It involves compensation paid by the offender to the crime victim for the violation that the crime involved for the victim. Thus it is not a damages payment to compensate the victim for any financial loss caused by the offender; instead it specifically represents compensation for violation.
<table>
<thead>
<tr>
<th></th>
<th>What sentence do you think a court would have awarded?</th>
<th>What sentence do you personally think should be awarded?</th>
<th>What sentence do you think people in general would want to see awarded?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No punishment...</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>Fine, fixed amount...</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td><strong>Day fines</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-2 months wages...</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Between 2 and 4 months wages...</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>Over 4 months wages...</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td><strong>Suspended sentence...</strong></td>
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<tr>
<td><strong>Probation...</strong></td>
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<tr>
<td><strong>Community service</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Less than 50 hours...</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>Between 50 and 150 hours...</td>
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<td>☐</td>
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<tr>
<td>Over 150 hours...</td>
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<tr>
<td><strong>Electronic monitoring</strong></td>
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<tr>
<td>Less than 2 months...</td>
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<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>From 2 to 3 months...</td>
<td>☐</td>
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<td>☐</td>
</tr>
<tr>
<td>Over 3 months...</td>
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<td>☐</td>
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<tr>
<td><strong>Prison</strong></td>
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<tr>
<td>Less than 2 months...</td>
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<td>☐</td>
<td>☐</td>
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<tr>
<td>2 months to 5 months...</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>6 months to 11 months...</td>
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<tr>
<td>1 year to 1 year 11 months...</td>
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<td>☐</td>
<td>☐</td>
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<tr>
<td>2 years to 2 years 11 months...</td>
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<tr>
<td>Duration</td>
<td>Treatment for the Offender</td>
<td>Mediation</td>
<td>Financial Compensation to the Crime Victim</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------------------------</td>
<td>-----------</td>
<td>------------------------------------------</td>
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<tr>
<td>3 years to 4 years</td>
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<tr>
<td>11 months...</td>
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<td>☐</td>
<td>☐</td>
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<tr>
<td>5 years or more...</td>
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<td>☐</td>
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<tr>
<td><strong>Treatment for the Offender</strong></td>
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</tr>
<tr>
<td>Less than 2 months...</td>
<td>☐</td>
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<td>☐</td>
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<tr>
<td>Between 2 months and 1 year...</td>
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<tr>
<td>Over 1 year...</td>
<td>☐</td>
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<tr>
<td><strong>Mediation...</strong></td>
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<tr>
<td><strong>Financial compensation to the crime victim</strong></td>
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<tr>
<td>Less than 50,000 SEK...</td>
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<tr>
<td>Between 50,000 and 100,000 SEK...</td>
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<tr>
<td>Over 100,000 SEK...</td>
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<td>☐</td>
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</tbody>
</table>
ORIGINAL PAPERS I-III