

***From Analog to Digital:
The Challenge of Teaching About Criminal Sentencing***

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“The house became smaller because the sun came out.”
(Auble, Franks, and Soraci, 1979).

What does this seemingly incomprehensible sentence have to do with teaching college students about criminal sentencing? Helping students to learn and understand the complex story of sentencing in the criminal courts may be a much more challenging exercise than it at first appears to be. It may be as challenging as making sense out of the opening sentence (see the very last word on the last text page (page 13) of this paper for the answer to making this sentence make sense). If you checked the last word, you now have been given a key that creates a context in which the above sentence can easily be understood. Without this key, the sentence simply makes no sense. In many respects, the challenge in teaching much in political science, including issues in criminal sentencing, is like this problem. The fact is that information transfer found in traditional teaching methods (i.e., lecture and reading texts) is very often not suitable for the task of providing the context - the key - for students to make sense out of some aspects of criminal sentencing. In fact, in many respects, criminal sentencing may rate with Newtonian physics (Carey, 1986; Smith, diSessa, and Roschelle, 1993) and probability (Tversky and Kahneman, 1971; Tversky and Kahneman, 1974; Konold, 1989; Hammer, 1997; Cohen, Smith, Chechile, Burns, and Tsai, 1996) as among the most difficult topics to teach in all of higher education. What makes this topic so challenging to teach? The answer may have been identified by Heider (1958) in his seminal work on social cognition and attribution theory.

In this paper, we discuss the problem of teaching students about issues of variability in criminal sentences, and teaching about how one goes about explaining this variation. We report on analyses we conducted in order to assess the effectiveness of an instructional intervention using a technology-based multimedia simulation that we developed under a grant from the Fund for Improvement in Postsecondary Education (FIPSE) and have used in class. We rely on cognitive learning theory to help provide guidance into

the ways that the instructional intervention can be said to produce superior learning outcomes.

Assumptions and Foundations

The problem in teaching about criminal sentencing is rooted in the fact that each student comes into class with preconceived ideas concerning how much variability there is, what causes this variability, and whether this variability is acceptable or not. Why is criminal sentencing, particularly the issue of explaining variation in criminal sentences, so difficult to teach? One of the primary reasons can be found in the works of Fritz Heider (1958; Ross and Fletcher, 1985) who hypothesized a fundamental drive in all people to reduce unpredictability. People, he suggested, are uncomfortable when faced with unpredictable outcomes. Rather than tolerate unpredictability, most people will attribute causes to events. There is comfort in having attributed causes to events, even if the causes are wrong (i.e. have no empirical validity), are appropriate only in certain idiosyncratic settings, tell only part of a story, or are ideologically driven.

What does this fundamental drive to reduce unpredictability matter for those trying to teach criminal justice sentencing? It matters because most students do not begin a class on criminal sentencing as the proverbial *tabula rasa*. Instead they typically begin a course having had at least some exposure to the basic problem of variability in sentencing decisions. Whether through the media, secondary education, or personal experiences and observations, most students will have some idea that fairness in sentencing is difficult to achieve. It is difficult to imagine a student with no concept of variability in sentencing. When asked to do so, most students can readily recite examples of criminal cases where they believe defendants were treated unfairly.

Inferring from Heider's work, most students with exposure to sentencing issues will *spontaneously attribute causes to the sentencing variability*, in an effort to reduce the unpredictability. In most, if not all cases, these causes will have some legitimacy. However, the causes attributed are likely to include simple-minded reactions or incomplete explanations. Students often attribute virtually all variation in sentencing to a single cause, such as racism, gender bias, political corruption, judges who are too liberal or soft on crime, judges who are too conservative, inequality of wealth or income, incompetence, or other single factor. One reason why it is easy for students to quickly attribute these causes to sentencing variability is that the real agents of the causes, namely the judges and judicial system, are *external* to the student. According to the fundamental attribution error in social psychology, it would be more difficult to attribute and rely on causes like racism or incompetence if students themselves were the agents. It is clearly difficult to see yourself or

your peers as racists or incompetents. Yet it is easy to see others this way.

As is abundantly demonstrated in the literature on criminal sentencing,¹ these causes do not tell the whole story. Factors like theories of criminal sanctions - deterrence, retribution, rehabilitation and incapacitation - certainly play a complex role in decisions. However, faced with the need to attribute causes and reduce the unpredictability, simple-minded attributions are very handy. These attributions play a vital role in helping students forge and maintain a tolerable cognitive balance. Without the attributions, students are faced with the difficult task of tolerating unpredictable behavior. Beliefs that play such an important role are tough to change through instruction. However, that is where teachers must start. Our way of thinking about teaching students criminal sentencing suggests that teachers need to consider the kinds of beliefs and ideas that occupy a student's mind as they craft teaching methods and instructional designs.

Teaching Students Who Have Preconceived Beliefs about Sentencing

Taking into account the beliefs students bring to a course is not a new idea in education. Prior knowledge and beliefs, and the role they play in learning, has been recognized as a key issue in teaching difficult subjects, in particular Newtonian Mechanics (Carey, 1986; Smith, diSessa, and Roschelle, 1993) and probability. (Tversky and Kahneman, 1971; Tversky and Kahneman, 1974; Pollatsek, Konold, Well, and Lima, 1984; Konold, 1989; Hammer, 1997; Cohen, Smith, Chechile, Burns, and Tsai, 1996) Ideas that are inconsistent with the formal, theoretical foundations in these two fields are often called "naïve." (Carey, 1986) For example, many students develop what is termed a naïve physics that is useful for understanding observed physical behavior. Watching a Frisbee fly and then land does not suggest that a body in motion tends to stay in motion (Newton's 1st law). Yet, the naïve idea that physical objects in motion tend to come to a halt is a useful heuristic for everyday life, and its usefulness makes it resilient and even applicable in circumstances where it does not belong.

These naïve beliefs present challenges to teachers when they try to help students replace ideas inconsistent with formal, theoretical notions, or simply help them build on their prior understanding (instead of replacing it) (Strike and Posner, 1992). This latter case is especially informative for teaching criminal

¹ See Jerry Goldman and Kent E. Portney, "The Role of Gender in Determining Criminal Sanctions: Results from Multimedia Experiments in Criminal Sentencing," Paper prepared for delivery at the 1997 Meetings of the American Political Science Association, August 28-31, 1997, Washington, D.C.

sentencing. Based on our assumptions, the instructional goal is not to replace naïve beliefs like bias and/or incompetence, for they certainly have a legitimate place in any network of understanding about sentencing. Incompetence, racial and gender bias, political corruption, etc., do exist. Rather, the goal is to deeply extend and reconfigure each student's network of ideas and beliefs to include additional factors. This kind of shift may be nearly as profound as moving from a naïve physics to a Newtonian model (Strike and Posner, 1992).

Unfortunately, it is not easy to deeply extend and reconfigure belief networks. It often requires *insight* on the part of the student that their network is simply inadequate for explaining certain results. When it occurs, it is not unlike hearing the word *igloo* after reading the first sentence of this paper. The learner actually reintegrates and renders comprehensible a previously incomprehensible context. In our search for clues to making criminal sentencing understood more deeply, we look to cognitive learning theory for assistance. Because of the expectation that learning about sentencing resembles in important ways learning to decipher the opening sentence to this paper, we take as our learning model research on *generative learning* (Soraci, Franks, Bransford, Chechile, Belli, Carr, and Carlin, 1994).

The Generation Effect

Research on generative learning suggests a way to help students reconfigure their beliefs. At the heart of this effect is the result that students who generate their own responses to open-ended queries tend to have much better memory for responses than when the responses are provided to them (Soraci, et al., 1994). This has been shown to be a robust empirical phenomenon that occurs across a wide range of learning contexts. In some sense this can simply be seen as support for active learning.

Related research suggests that the *order* of the information plays a key role. For instance, telling students *the house became smaller because the sun came out* followed by the word *igloo* results in much *better* memory than mentioning *igloo* prior to giving subjects the sentence. This result suggests an unusual instructional design: start by creating ambiguity by providing a noncomprehended context, have the student actively engage in resolving the ambiguity, and superior learning occurs. While it may be best for students to resolve the confusion on their own, superior learning also occurs when the confusing sentence is proposed first and the key concept is subsequently revealed. This is important, since education often does not permit enough time for students to resolve as many puzzles as we would like them to.

We believe this kind of learning process is essential if students are really going to broaden their

understanding of sentencing. Simply telling students that factors like deterrence or retribution influence sentencing decisions will not help most students appeal to these ideas when confronted with issues of criminal sentencing. Students may be able to recite these ideas on a test of recall, but they do not seem to avail themselves of these explanations when critically reviewing controversial decisions. Students must first appreciate the limited application of their preconceived ideas. Only then they will be in a position to extend their understanding.

The Design of the Instructional Intervention

In order to take advantage of the what we know about the generative learning effect, we devised an “instructional intervention.” This instructional intervention, suggested by the generation effect, has 4 steps:

Step 1: Introduce students to the topic of variation in sentencing. This can be done with traditional methods - lectures, readings from texts or other written sources.

Step 2: Have students play the role of judge through sentencing simulations. This can be done through a variety of different techniques, although as we discuss later, the multimedia approach has distinct advantages over paper-and-pencil simulations or simple role-playing. This step is described in much more detail below. In order to facilitate Step 3, the simulation must not only establish the extent to which there is variability in the sentences students render, it must also yield compelling explanation for why these variations exist. Our approach is to conduct the simulation using an experimental design such that the characteristics of the cases that we would like to offer as explanations are systematically varied.

Step 3: Confront students with their own sentencing behavior and challenge the class to rationalize/explain the results with respect to variability. When the students render their sentences, these sentences must in some manner be recorded, and be tallied and summarized for presentation to the class as a whole. In other words, there must be a way to hold a mirror up to the students to show them what they produced. This process essentially causes the confusion that the generation effect requires.

Step 4: Teach theories of sentencing. Once students come to recognize the limits of their explanations, they are open to new and more complete or expanded explanations. Exposure to theories of sentencing and the literature positing alternative explanations offers students a mechanism to resolve the confusion they experienced as a result of seeing their own sentencing results.

A Rationale for a Possible Improvement

Our approach utilizes the instructive experience of simulation/role play (Step 2 in the instructional intervention). It works as follows. Each student in a class plays the role of sentencing judge and renders her/his own sentences for the same set of cases. When all students have had a chance to play the role, the instructor tallies their sentences and confronts them with their results. When students see the enormous variability among sentences *that they themselves - each student and his/her peers* we expect their naïve beliefs to weaken. These beliefs suddenly have a real limitation. *To the extent that students collectively demonstrate sentencing variation, simulation results force students to either see themselves as biased, racist or, incompetent, etc., or to look for an expanded set of beliefs around which to structure their thinking about sentencing.* This experience should force some students to challenge their (naïve) beliefs. Once these beliefs are challenged and naïve causes are seen as inadequate, students may be in a better position to develop a more complex appreciation of criminal justice sentencing.

The Use of Simulated Role-Playing

We prepared simulated role playing in two different forms. In one form, we developed case files that contained written materials describing each of six different criminal felony cases. In the other form, we created a multimedia experience where students could feel like they are actually presiding over court proceedings.

The Multimedia Simulation

Our method for addressing these issues is to develop and use in class a technology-based multimedia simulation of the sentencing process. In this simulation, called “Crime and Punishment,” students sit at a computer and take on the role of a sentencing judge in sentencing some six cases that are composites of cases from Massachusetts and Cook County, Illinois.² The simulation contains an array of documents typically available to sentencing judges, and allows students to take part in a sentencing hearing in which full-motion, CD-ROM-based, video presents the relevant actors - the prosecutor, defense lawyer, defendant, and the victim. The student gets the “feeling” of walking into the courthouse, via this visual

² A “Crime and Punishment” CD-ROM containing a non-experimental version of this multimedia simulation for either the MacOS or Windows 95 operating environments is available free of charge by writing to the authors.

context, passing through the metal detector, acknowledging the greeting of court personnel, and entering his or her chambers. Once in chambers, the student picks up a court docket and folder and walks into the courtroom. Upon hearing "all rise," the student proceeds to the judge's bench. The docket is placed on the desktop, and the student can select a case by clicking on any of six items on the docket. At this point, something that looks like a standard paper file opens up revealing two court documents describing the case at hand on one side, and a presentence investigation report on the other side. By clicking on either document, the student can read that document. When ready to do so, the student can view a sentencing hearing by clicking on the gavel sitting on the desktop. The sentencing hearing consists of full-motion video of the prosecutor explaining the case and making a sentence recommendation; the defense lawyer presenting mitigating circumstances; the defendant making a brief statement; and the victim delivering an impact statement. After all of the case materials are digested, the student proceeds to render a sentence. Within the constraints imposed by the governing criminal statutes in the case, students have full control over the severity and type of sentence to be imposed.

Crime and Punishment contains six different cases where the defendant in each case must be sentenced by each student. The first case encountered by the user, an armed robbery case, serves as an anchor and therefore was created with no variables, i.e. all students see the exact same case. The remaining five cases, possession of drugs with intent to distribute, armed robbery, grand larceny shoplifting, and sexual assault on a minor, are made accessible to the student through the court docket, as described above. Thus, the multimedia application is, from the outset, considerably more interactive than is its paper-and-pencil counterpart.

The utility of the Crime and Punishment simulation is readily seen in the way characteristics of the cases are manipulated. Because the simulation is delivered to students over the Internet, we are able to vary characteristics of the cases in systematic ways. The simulation we created allows instructors to vary the race of the defendant (the defendant could be either African-American or white); the gender of the defendant (either male or female); the appearance of the defendant (either wearing street clothes or in a prison jump suit); the affect exhibited by the defendant (the defendant might not speak, or when the defendant speaks, he/she can be either animated or subdued); and whether or not the victim makes a statement. By allowing only one of these characteristics to vary and holding everything else constant, we can isolate the effect of that variable on the sentences rendered by the students. For example, we can vary the gender of the defendant and hold everything else constant. We do this by simply inserting a different video image into the courtroom scene while keeping the rest of the visual array constant. For classes that

are sufficiently large, the simulation allows the instructor to vary more than one characteristic simultaneously, such as the race *and* the gender of the defendant. In the classroom experiments reported here, the simulations were implemented where only race and gender were varied, while all other characteristics were held constant. Again, because the simulation was delivered via the Internet, Step 3 in the instructional intervention - reporting the results to the class - was relatively easy since the aggregation of the data from all participating students was accomplished automatically.

The Paper-Based Simulation

We also created paper versions of each of the cases found in the multimedia simulations. All of the information that was contained in the multimedia simulations, except the visual elements, was reduced to paper. The same experimental design was used, where the race and gender of the defendant was systematically varied. Preparation of four versions of each of the six cases was a considerably greater challenge than was the case with the multimedia simulation. The paper-based simulation was used in the context of the same instructional intervention as that used with the multimedia simulation. Logistically, aggregation and analysis of the resulting data for all students was much more labor-intensive than with the multimedia simulation because each student's sentences had to be hand-coded and keyed into the computer.

Assessing this Approach

We set out to try to determine whether students do, in fact, seem to learn more from using this instructional intervention approach. Thus we embarked on a learning assessment at Tufts and Northwestern Universities. Three Political Science classes were used in this assessment:

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Class 1	Class 2	Class 3
No Simulation ³	CD-ROM based simulation ⁴	Paper-based simulation ⁵
Control class using traditional lectures and reading to teach variability in sentencing. This included extensive reference to empirical studies, and providing opportunities for students to analyze data from actual felony cases.	A class using a CD-ROM multimedia simulation which presented sentencing hearings and allowed students to play the role of judge and sentence convicted felons in six cases involving different kinds of crimes	A class using paper-based simulations where the cases were identical to those included in the multimedia counterpart

Students in classes (2 and 3) were exposed to the same materials as those in class 1, plus the instructional intervention. As part of this intervention, students who used a simulation/role-play were confronted with the following results after they all had a chance to participate in the exercises:

1. summary measures of their sentencing behavior (class means and standard deviations).
2. histograms of sentencing distributions for the entire class.
3. extreme sentences and the written justifications.

We hypothesized that if the instructional intervention (involving the four steps outlined above) works, we would see particular patterns of differences among the three classes.

Hypothesis *a*): we would expect that students experiencing the instructional intervention would be better able to use theory to explain variation rather than point to naïve causes. In other words, we expected to see students rely more heavily on theoretical justifications, such as deterrence, rehabilitation, etc. Given the nature of the specific scenario students were asked to judge, we expected that the central difference would be between students who cited a deterrence rationale versus those who simply relied on attribution of naïve

³ Portney's "Judicial Politics" course, Spring semester 1995.

⁴ Portney's "Judicial Politics" course, Spring semester 1996

⁵ Goldman's "The Politics of Local Justice" course, Winter term 1995-96.

causes in rendering their decisions;

Hypothesis *b*): we would expect that students experiencing the instructional intervention to be more likely to accept variations as part of judicial process rather than ascribe variation to simple explanations. We expect that students not exposed to the intervention to be aware that there is substantial variability in sentences, and to attribute this perceived level of variability to simple causes that they see as bad or unacceptable. So, for example, a student might recognize that there are unequal sentences, and that this inequality is attributed to racism, incompetence, corruption, inequality in wealth and access to resources, etc. Since the attributed cause is seen by the student is illegitimate and unacceptable, so too is the inequality of sentences. As students' understanding of the multiplicity of causes of sentence variability deepens, and as they come to recognize that much of the variability in sentences cannot be explained very satisfactorily by any hypothesized cause, we expect their acceptance of that variability will also increase.

Hypothesis *c*): we would expect students exposed to the instructional intervention to try to remedy variation by staying closer to what they would expect to be a middle range of sentences. Because students will not know with any certainty what other students will choose as sentences, it would be virtually impossible for them to know how they can contribute to reductions in sentencing variability. In the absence of information about what sentences others will render, they will opt to pay closer attention to the range of permissible sentences outlined in the language of the criminal statute(s), and will choose sentences that are closer to the mid-range of what is permissible. The result should be a reduction in variation.

After the course's sections on their respective treatment of issues of criminal sentencing were completed, students were administered a questionnaire, a copy of which is found in the Appendix, to develop specific information about what they may have learned. Three different measures were used to assess these hypotheses. To assess hypothesis *a*), we asked students to explain in what way it could be justified for a judge to sentence an African-American male to a longer prison term than a white male in order to stem the tide of drug crimes in a neighborhood (question 2). The problem is designed to evoke reference to racism as an explanation, or an answer of deterrence, or both. To assess hypothesis *b*) we asked students, in question 6, to describe the actual level of intra-court variability in criminal sentencing, using a five point Likert scale, as being: 1. Far less than they would find acceptable; 2. Somewhat less than they would find acceptable; 3. Within the range of what they would find acceptable; 4. Somewhat greater than they would find acceptable; 5. Much greater than they would find acceptable. To assess hypothesis *c*), we had students sentence two cases, one a case of sexual assault, the other a case of grand larceny. These cases, not found in the Appendix

because of their length, were different from the cases incorporated into the role- play simulation.

In addition to addressing these three questions, we were interested in assessing how comparable the three classes were, and in learning how the CD-based simulation results would compare to the paper-based results. Students found the CD and paper simulations equally realistic, and typically took about 2 hours to complete the assignments. We had a clear *a priori* reason to believe the students in the three classes were comparable, but we opted to administer questions to provide specific evidence of this. These questions asked students to report on a variety of factors we thought might conceivably affect any inter-group differences in the assessment criteria, including differences in SAT scores, grade point averages, baseline knowledge of the judicial system, familial socio-economic status, and others, and no differences were discerned.

Results

The comparisons among the three classes show distinct patterns of difference. The results of the analysis are summarized below.

Class	Percent of Students Using a Deterrence Rationale	Percent of Students Saying Variation is “Acceptable” (responses 1, 2, or 3)	Prison Sentences in Months for the Larceny case (means and standard deviations)	Prison Sentences in Months for the Sexual Assault case (means and standard deviations)
Class 1: Control (n=36)	14%	13%	$\bar{x} = 88$ (35)	$\bar{x} = 173$ (80)
Class 2: CD-based (n=33)	33%	23%	$\bar{x} = 92$ (22)	$\bar{x} = 185$ (80)
Class 3: Paper (n=51)	20%	43%	$\bar{x} = 83$ (29)	$\bar{x} = 169$ (89)

The data generally offer support for our hypotheses. In the first hypothesis, the issue is whether traditional teaching methods (compared to the instructional intervention) put students in a position to appeal to complex beliefs when thinking about controversial sentencing decisions. The data show that only 14% of students in the control group cited deterrence as a possible cause for the sentence disparity. In other words, for 86% of the students, deterrence was not an explanation that came readily to mind as an explanation for the sentencing scenario. But when exposed to the instructional intervention, deterrence became a useful concept

for 20% of the students participating in the paper-based simulation, and for 33% of the students using the CD-based simulation. We also see some support for hypothesis *b*). There was a similar effect in students' ability to appreciate what a difficult problem fairness in sentencing really is. Only 13% of the students reported that they considered the level of variability as "acceptable," while 23% of the CD-based simulation students and 43% of the paper-based simulation students reported the level of variability to be "acceptable." There appears to be some support for hypothesis *c*) for the larceny case but not for the assault case. We expected to see the instructional intervention produce reduced variability compared to the control group. When we examine the standard deviations of the prison sentences, indeed, for the larceny case, both the CD-based simulation and the paper-based simulation interventions show lower standard deviations without affecting the mean sentence. Thus, the intervention seems to have influenced students who might have given sentences at either the high or low ends of the permissible range to opt for middle-range sentences. This pattern is not evident in the assault case, however.

Those students in classes using the simulations (in the context of the prescribed instructional intervention) demonstrated an effect due to the intervention, regardless of the media used to deliver the simulation. There is more unacceptable variation and greater reliance on punishment theory when confronted with the most stimulating exercises. But the data also reveal striking similarities between paper and multimedia simulations. This suggests that *any* simulation has merit in relation to no simulation. The comparisons also suggest that variation in some kinds of cases (sexual assault) may be more difficult to reduce than in other cases.

We also expect that the learning effects from the instructional intervention, particularly using the multimedia approach, may well be greater for students who have lower verbal aptitude, i.e. students who are less likely to achieve high levels of comprehension from reading empirical and other works on sentencing variability. The more difficulty a student has in learning from more traditional sources, such as books, or research articles, the more likely that student will experience improvement in learning outcomes as a result of the instructional intervention. And we also expect that the relative advantages of the multimedia-based simulation over the paper-and-pencil counterpart will be substantially greater for students whose reading comprehension is challenged. This expectation makes the results reported here all the more remarkable, since the assessment was conducted with the participation of students at two colleges where verbal aptitudes are likely to be higher than that found at many other institutions.

Although the multimedia role-playing simulation used in the context of the instructional intervention

did not produce across-the-board learning improvements, it is clear that using such technology-based simulations is considerably easier than paper-and-pencil alternatives. Administering the simulation using an experimental design to an entire class of students, particularly a class with multiple sections, is a daunting task. Preparing four or more paper-based versions of each criminal case is a tedious task, one which most instructors would not have the time or resources to do. Furthermore, the collection, aggregation, and analysis of the results of the simulation - the sentences students render - adds considerable time to the process. The beauty of the multimedia-based simulation is that these administrative processes have been automated, and the time and energy that would have been devoted to more mundane tasks can be spent on preparing interpretations of the results. The practical fact is that the multimedia approach is much more likely to be used than its paper-and-pencil counterpart.

We also recognize that the design of the instructional intervention was heavily informed by a particular conception of belief networks and conceptual change. We are planning future research designed to assess a range of alternative instructional intervention designs based on other conceptions of belief networks, in order to examine the extent to which this approach holds more broad-based promise cannot be evaluated.

The final word is IGLOO.

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Appendix
Questionnaire Used in the Assessment
(Format Changed for this Appendix)

1) Under which of the four theories of punishment would you expect greater variation in sentence severity across cases as a necessary byproduct of its success? In other words, if each of the four theories was used to its most successful way, which one would likely produce the greatest variation? Why?

2) You live in a community that has had an alarming increase in the amount of drug-related crime. There is a widespread perception that this problem has its origins among the Black residents of your community. As a result of the police department's effort to get tough on crime, two people are arrested, charged, and convicted of the identical crime, possession of cocaine with the intent to distribute. Neither of these people has any prior record. Both are employed, and they are the same age. One defendant is Caucasian and the other is Black. Do you think that under these circumstances, the judge sentencing these two defendants would be justified in giving the Black defendant a more severe sentence than the Caucasian defendant. If so, explain why. If not, explain why not.

3) We have discussed a variety of factors that influence how severe a sentence a particular criminal defendant might receive. Aside from the purely legal factors, such as the severity of the crime and the prior record of the defendant, are there other "extra-legal" factors that play an important role in influencing sentence severity? Briefly explain which factors and why they have that influence.

4) The death penalty is **least** consistent with which theory of punishment?

- a) incarceration
- b) rehabilitation
- c) retribution
- d) deterrence

Please explain why you chose the above answer.

5) Two judges, Judge Black and Judge White, each subscribes to one and only one theory of punishment. Each claims to subscribe to a different one. Yet, on two given cases that look very much the same, both judges handed out the same sentences. To which theories do you believe the

judges subscribed? Please explain how you arrived at this conclusion.

6) Given everything you now know about the criminal courts in the U.S., do you think the amount of intra-court variation in sentence severity for a given type of case is:

- Far less than I would find acceptable
- Somewhat less than I would find acceptable
- Within the range of what I would find acceptable
- Somewhat greater than I would find acceptable
- Far greater than I would find acceptable

Briefly explain why.

7) A judge who believes in the incapacitation model of punishment sentenced a white male to 12 years in prison for 2 counts of felony armed robbery. Is it possible for a judge who believes in rehabilitation to offer the same sentence? Why or why not?