

# Evidence and Effects of Remorse in Sentencing

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# Remorse as Mitigating Factor in Sentencing

- Statutes in Australia, NZ
- Practice directions in England, Wales
- Case law in England, Wales, Canada, Australia; sentencing guidelines in USA
- International criminal tribunals, transitional justice
- Most common mitigating factor - English Crown Court Sentencing Survey 2012

# Remorse in Sentencing: Sample Characteristics

- 262 online sentencing remarks from District, Supreme Courts in SA, 2016-2017
- Remorse mentioned by judge in remarks
- 262 sentencing remarks = 26% of available online transcripts
- Classified as *remorse present*, *remorse absent*, *remorse raised*

# Research Questions

1. What do judges consider to be evidence of remorse?
2. Does remorse evidence differ between types of offences?
3. How do judges use professional reports in findings about remorse?
4. How does remorse affect sentencing outcomes?



What do judges consider as  
evidence of remorse?

# What is remorse?

- recognition of wrong and harm;
- recognition of responsibility;
- a sense that life has changed as a consequence;
- feelings of turmoil;
- a desire to make reparation,
- a desire to be forgiven; and
- having acted upon desire to make reparation.

*Proeve & Tudor (2010)*

# What is remorse?

From legal case analysis:

- Admitted responsibility for offences
- Demonstrated visible suffering; related to suffering caused to others
- Evidence of personal transformation

*Weisman (2009)*

## **SA study: Indicators of remorse in order of frequency**

- Guilty plea – early, or in general
- Change in behaviour
- Seeks help in relation to offending
- Makes apology
- Understand harm to others
- Accepts responsibility
- Cooperates with authorities
- Personal distress




## Indicators of *absence of remorse* in order of frequency

- Not Guilty plea
- Does not accept responsibility
- No consideration for victim
- Does not understand harm to others
- Does not recognise wrongdoing
- No change in behaviour
- Does not seek help in relation to offending

# Guilty pleas and remorse

- Guilty plea most frequent indicator of remorse or *absence* of remorse
- Guilty plea was very rarely the only indicator of remorse.
- Guilty pleas were sometimes discounted as indicating remorse
- For remorse to be present, guilty plea plus additional evidence



Does remorse evidence differ between  
types of offences?

# Remorse and offence types


- Murder or manslaughter
- Offences against the person
- Sexual offences
- Property offences
- Drug offences (commercial)

# Remorse and offence types

- Murder or manslaughter - highest number of remorse indicators > sexual offences; drug offences lowest number

Differences in indicators of remorse:

- Homicide offences – taking responsibility, understanding harm
- Sexual offences – seeking help for offending
- Drug offences – change in behaviour




How do judges use professional reports in findings about remorse?

# Professional Reports

- Second most frequent source of evidence in *remorse present* transcripts
- Most frequent source in *remorse raised* transcripts
- Judges' scepticism about psychologists' evidence about remorse?

# Professional Reports

- Reflexive content analysis of 24 transcripts
- Judges identified indicators of remorse in reports
- Judges noted expressions of remorse in reports
- Only 2 examples where professional opinion about remorse appeared to be accepted
- Judges make use of reports with other evidence



How does remorse affect  
sentencing outcomes?

# Remorse Prediction of Sentencing

- Quantitative analysis of 187 transcripts
- Sentencing outcomes: Imprisonment in months; Non-parole period in months; suspended sentences
- Remorse measured as *present* or *absent*.
- Remorse *correlated with all three sentencing outcomes* at small or medium effect size
- Fewer months imprisonment, NPP; positive with SS

# Remorse Prediction of Sentencing

Logistic regression of *suspended sentences*:

✗ Remorse

- ✓ Lower age of offender
- ✓ Lack of similar offences
- ✓ Guilty plea

# Remorse Prediction of Sentencing

Robust regression of *months of imprisonment*:

*First step:*

- ✓ Remorse - fewer months imprisonment
- ✓ Higher age of offender - more months imprisonment
- ✓ Similar offences - more months imprisonment

# Remorse Prediction of Sentencing

Robust regression of *months of imprisonment*:

*Second* step:

- ✓ Guilty plea - fewer months imprisonment
- ✓ Higher age of offender - more months imprisonment
- ✗ Similar offences
- ✗ Remorse

# Remorse Prediction of Sentencing

- Remorse did not add to prediction of sentencing in addition to the guilty plea
- Value of remorse in sentencing may be other than its instrumental outcome
- Remorse demonstrates membership of moral community

# Summary Findings

- Guilty plea is indicator of remorse, but rarely by itself
- Remorse indicators may differ between different offence types
- Judges use professional reports as evidence about remorse
- Remorse adds little to sentencing outcomes in addition to guilty plea

# References

Proeve, M., & Tanvir, T. (2022). When “I did it” is not enough: Content analysis of remorse in sentencing remarks. *Current Issues in Criminal Justice*, 34(3), 291-306.

Proeve, M. (2024). The influence of remorse on sentencing outcomes. *Current Issues in Criminal Justice*, 37(3), 480-492.

Tudor, S., & Proeve, M. (in press). Who can tell if an offender is truly remorseful? Judges' use of psychologists' and psychiatrists' evidence of remorse. In J. Neoh and L. Siliquini-Cinelli (Eds.) *Research handbook on the epistemologies of law*. Edward Elgar.

Tudor, S., Rossmanith, K., & Proeve, M. (2025). Perspectives on how judicial officers can assess remorse in sentencing proceedings. *Judicial Officers' Bulletin*, 37(7), 69-74.