

Case 4: Equalizing Attempt

Currently, the criminal sentencing guidelines in Michigan state that sentences for (completed) murder are more severe than sentences for attempted murder. Similarly, sentences for drunk driving causing death are more severe than sentences for instances of drunk driving where nobody dies.

You are a state legislator considering a package of criminal law reform proposals. The proposals are motivated by the suggestion that a person who assaults a victim with the intention to commit murder is just as dangerous and as blameworthy as a person who intends to kill the victim and succeeds; likewise, two equally drunk drivers are equally dangerous and equally blameworthy for their recklessness regardless of whether either driver ends up injuring or killing anyone. Supporters of the bill argue that criminal punishment should depend only on factors over which the defendant has control, not on chance events like whether an intended victim actually dies.

However, many people have strong moral intuitions that a wrongdoer's blameworthiness depends in part on how much harm he or she causes, so it's appropriate for the law to inflict more severe penalties on offenders whose actions cause serious injury or death.

You are hearing from impassioned constituents on all sides of this thorny issue, including defendants, victims, victims' families, attorneys, and members of the general public. Even within each of these groups, there are many different perspectives. You have a week to decide how you will vote.

Study Questions:

1. Should your state "equalize" the sentencing consequences for Murder and Attempted Murder? For Drunk Driving Causing Death and Drunk Driving? Why or why not?
2. Does your answer depend on whether the proposal increases the punishments for non-lethal offenses to meet the current punishments for the lethal offenses, or decreases punishments for lethal offenses to meet the current punishments for the non-lethal offenses, or sets the punishments for both offenses somewhere between these two degrees of severity?

3. Why is a criminal's mindset relevant to her punishment? Why, if at all, is the outcome of a crime relevant to the punishment?
4. What is the proper goal of criminal punishment?
5. Many drunk drivers are apprehended by police officers who observe poor driving, but many others are apprehended when officers notice their drunkenness during traffic stops made for unrelated reasons, like expired license plates. Should the criminal law differentiate between drunk drivers who exhibit poor driving and those who do not, punishing people in the first category more severely? Should it differentiate between drivers with higher and lower blood alcohol levels, which indicate how much alcohol the person has actually consumed, regardless of how impaired (or unimpaired) he or she appears?