

**CRIME, PUNISHMENT AND PUBLIC OPINION:
A SUMMARY OF RECENT STUDIES
AND THEIR IMPLICATIONS FOR SENTENCING POLICY**

Recent studies of public opinion on crime and punishment contain important information concerning sentencing practices. Much of the data contradicts the rationale offered by policymakers to support punitive sentencing policies. Many of these findings are surprisingly decisive, and could encourage policymakers to reevaluate current sentencing policy.

The most significant findings are the following:

- *The public is generally misinformed on crime and criminal justice policy.*
- *Public opinion is more complex than policymakers assume.*
- *Politicians misjudge public attitudes.*
- *Public opinion shifts in relation to political initiatives.*
- *Public opposition to rehabilitation and prevention is exaggerated.*
- *Public embraces alternative sentencing options when offered.*

The Public is Generally Misinformed on Crime and Criminal Justice Policy

- *The public consistently misjudges trends in crime.* Each year from 1996-1998, nationwide studies conducted by the Gallup Organization showed that a decisive majority of the American public believed crime had increased since the previous year. The Crime Index had actually been decreasing steadily during this time.¹
- *The public tends to underestimate the severity of sentencing.* A 1997 survey conducted by the Florida Department of Corrections revealed that Florida residents assumed inmates served on average 40% of their original sentence, while in actuality inmates are expected to serve 85% of their original sentence.²
- *Public attitudes are strongly influenced by mistaken beliefs.* A 1994 survey on public opinion about crime and corrections in Oregon conducted by Doble Research Associates showed that citizens believed half of those convicted of violent crime are not incarcerated, and also that large numbers of both violent and non-violent prisoners are released early due to prison overcrowding.³ In stark contrast to these beliefs, data from the Oregon Criminal Justice Council shows that of all convicted offenders, violent and non-violent, 77% receive jail or prison time, while none are released early due to prison overcrowding.⁴

Public Opinion is More Complex Than Policymakers Assume

- *Forming broad policy on the basis of perceived public attitudes can lead to correctional practices that the public does not support in individual situations.* A study of Ohio residents conducted in 1995 revealed that while a majority of respondents indicated they were in favor of passing a three-strikes law,⁵ when they were confronted with specific situations, only a small minority believed a life sentence was appropriate for the described offender. While 88% of the respondents expressed strong or moderate support for three-strikes laws, 95% favored allowing exceptions in one or more instances.⁶

Politicians Misjudge Public Attitudes

- *Policymakers do not accurately perceive public opinion.* For example, a 1985 study by the Michigan Prison and Jail Overcrowding Project revealed that policymakers, when asked to estimate public support for alternative sentencing, grossly underestimated this support to be 12%, compared to the actual level of 66%.⁷

The survey revealed that decisionmakers “overestimated the proportion of all crime that is violent or person-related.” This kind of information suggests that policymakers are misinformed in ways that may bias them against alternative sentencing and reforms which reduce reliance on incarceration.⁸

Public Opinion Shifts in Relation to Political Initiatives

- *Public concern with drug and crime issues sometimes shifts dramatically in strikingly short periods of time.* Between July and September of 1989, for example, in the wake of an anti-drug campaign initiated by the first Bush administration, the percentage of poll respondents reporting that drugs were the nation’s biggest problem rose from 15% to 64%.⁹ This increase outweighed any change in reported incidence of drug use during these months. By 1992, when drug related emergency room visits had reached record levels, only 10% of poll respondents identified drugs as the nation’s biggest problem.¹⁰ This evidence suggests the public’s perception of the crime problem depends only partially on shifts in the crime level itself, and is significantly affected by political initiatives.

Public Opposition to Rehabilitation and Prevention is Exaggerated

- *Public support for rehabilitation is greater than political rhetoric would indicate.* A 1995 study carried out by the National Opinion Survey on Crime and Justice revealed significant support for rehabilitative measures. Twenty-one percent of U.S. adults indicated rehabilitation should be the *principal* goal in sentencing offenders, and 50% of respondents thought it should be the *most* important factor in sentencing juveniles.¹¹ In the same study, nearly two thirds of respondents supported granting prisoners early release through good behavior and participation in work programs.¹²
- *Public support for addressing crime through social interventions is very strong.* More than half (54%) of the public favors spending money on social and economic problems to lower

crime, compared to a third (31%) endorsing more funding to the criminal justice system (and 13% supporting spending in both areas).¹³

- In a 1995 study, Oregonians expressed a strong commitment to rehabilitation. Eighty-eight percent of those polled favored greater use of mandatory treatment for offenders or inmates with drug and alcohol problems, even at increased cost.¹⁴
- Strong public commitment to rehabilitation is illustrated in several other studies including those conducted in Washington State (1993),¹⁵ Vermont (1994),¹⁶ and North Carolina (1995).¹⁷
- In a 1994 Los Angeles Times survey, 64% of respondents believed that most or some *violent* criminals could be rehabilitated.¹⁸

Public Embraces Alternative Sentencing Options When Offered

- *People acknowledge that the flexibility allowed by sentencing alternatives makes for a more just system.* A 1989 Alabama study revealed that 90% of those surveyed agreed that alternatives give judges the flexibility to make the punishment fit the crime.¹⁹
- *Numerous studies in recent years have established that the better educated people are about the issue, the more supportive they are of alternative sentencing.*²⁰
 - In 1991, a survey of Delaware residents conducted by the Public Agenda Foundation revealed that Delawareans were supportive of sentencing alternatives after being educated and participating in educational discussion. When offered additional sentencing options, besides just prison or probation, participants showed strong support for the alternatives, particularly for nonviolent criminals.²¹ The participants, who were asked to sentence twenty-three hypothetical offenders, favored an alternative sentencing option in eighteen of the twenty-three cases, (the five offenders sentenced to prison consisted of four violent criminals and a drug dealer convicted for the fifth time). Virtually identical studies carried out in Alabama (1989) and Pennsylvania (1992) yielded similar results.²²
 - In a 1995 Oregon survey, 92% of Oregonians wanted to make greater use of sentencing alternatives.²³

Implications for Criminal Justice Policy

- *Education of both the public and policymakers is critical for change since public opinion is uninformed when it comes to crime and sentencing policy.* Support for incarceration and increased punitiveness in sentencing often results because people underestimate how punitive the system already is. Studies have shown that when people are educated about the issues, they tend to support a broader range of sentencing strategies.

- *Policymakers and advocates should take greater advantage of potential support for alternative sentencing.* The bulk of the data suggests that the public is largely supportive of alternative sentencing, particularly for nonviolent criminals, and that it has a strong commitment to treatment and rehabilitation. Studies show that people appreciate the advantages of offering alternative sentencing options, and that they believe it creates a fair, more just system, one which allows judges to evaluate each offender individually.
- *Policymakers need to be encouraged to investigate public opinion on crime and justice in more complex ways.* Policymakers fail to acknowledge the complex, multidimensional nature of public opinion. Often policies are formed on global attitudes that the public rejects in individual situations. To combat this problem, legislators should be encouraged to craft sentencing policies that allow for appropriate consideration of public safety and rehabilitation objectives, along with the flexibility required to assess individual cases.

¹ See Bureau of Justice Stat., U.S. Dep't of Justice, Sourcebook of Criminal Justice Statistics 1999, at 116, 339 (providing public opinion and crime rate statistics). A related series of questions asked respondents whether they believed there was more crime *in your area* than a year ago. Only in 1998, after six years of declining crime rates, did a majority of respondents answer negatively.

² See Corrections Journal, *Florida Department Surveys Residents' Views on Its Prisons*, August 7, 1997, at 5-6.

³ See Doble Research Associates Inc., *Crime and Corrections: The Views of the People of Oregon*, April 1995, at 5.

⁴ *Id.*

⁵ Three-strikes law requires mandatory twenty-five year or life sentences for any previously convicted felon on a third conviction. While the covered offenses vary by state, this research sought responses to a hypothetical three-strikes law based on pending legislation in Ohio at the time. Covered offenses were primarily violent, but also included burglary and attempted burglary.

⁶ See Brandon K. Applegate *et al.*, *Assessing Public Support for Three-Strikes-and You're-Out Laws: Global versus Specific Attitudes*, *Crime & Delinquency*, Vol. 42 No 4, October 1996, at 522, 529.

⁷ See Patrick M. Clark, *Perceptions of Criminal Justice Surveys, Executive Summary*, Michigan Prison and Jail Overcrowding Project, 1985.

⁸ *Id.*

⁹ Katherine Beckett, *Making Crime Pay*, 1997, at 14-27.

¹⁰ *Id.*

¹¹ See Timothy J. Flanagan and Dennis R. Longmire, editors, *Americans View Crime and Justice: A National Public Opinion Survey*, at 69.

¹² *Id.*, at 87.

¹³ *Id.*, at 67.

¹⁴ Doble, *supra* note 3, at 8.

¹⁵ See Mary J. Mande, *Opinions On Sentencing In Washington: The Results of Four Focus Groups*, Washington State Sentencing Guidelines Commission, March 30 1993.

¹⁶ See Doble Research Associates Inc., *Crime and Corrections: The Views of the People of Vermont*, A Report to The Department of Corrections: The State of Vermont, July 1994.

¹⁷ See Doble Research Associates Inc., *Public Opinion About Crime and Corrections in the State of North Carolina*, A Preliminary Report, January 1995.

¹⁸ See Bureau of Justice Stat., U.S. Dep't of Justice, Sourcebook of Criminal Justice Statistics, 1994, at 176 (providing statistics on public opinion of the effectiveness of rehabilitation).

¹⁹ See Michael Tonry and Kathleen Hatlestad, *Sentencing Reform in Overcrowded Times*, 1997, at 259.

²⁰ *Id.*, at 249-275.

²¹ *Id.*, at 259-265.

²² *Id.*, at 255-270.

²³ See Doble, *supra* note 3, at 7.