



A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY¹

EXECUTIVE SUMMARY

This report is based on a review of more than 50 public opinion surveys and polls, most of them conducted between June 2014 and June 2016. Many of them are based on state rather than national samples, reflecting the fact that most of the action in terms of policy reform has been at the state level. The research included covers American attitudes towards a range of policy issues that comprise the criminal justice reform agenda.

FINDINGS INCLUDE THE FOLLOWING:



Americans are becoming less punitive:

After 40 years of public support for harsh criminal justice policies, public opinion research points in the direction of a significant thaw that could, over time, produce a paradigm shift, away from punitiveness and towards prevention, rehabilitation, and reintegration as corrections policy goals.

Americans support prevention, rehabilitation, and reintegration:

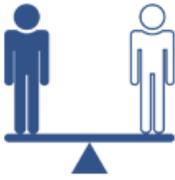
At the same time punitive sentiment is ebbing, the public is showing considerable support for rehabilitation and alternatives to incarceration.



¹ Researched and written by Loren Siegel for The Opportunity Agenda, June 2016.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY



Some movement on racial justice:

While there is a huge racial divide when it comes to attitudes towards the criminal justice system in general and the police in particular, there has been some progress in the public's understanding of racial bias.

A racial divide in attitudes towards the police is significant:

The high-profile police killings of unarmed blacks and the protests that followed generated a spate of public opinion research during 2014–16. The big takeaway is that although these events produced some movement among some white Americans towards a greater appreciation of the systemic racism in law enforcement, the black/Latino-white divide on attitudes towards the police remains deep and wide.



While the overall trends are favorable to change, there are some red flags that advocates should be aware of. They include:

- ▶ **The fear factor.** Fear of crime and victimization has long been recognized as a driving force behind Americans' attitudes towards criminal justice policy. In spite of the widely reported drop in the crime rate year after year since it reached its peak in 1994, a majority of Americans believe there is more crime in the U.S. than there was a year ago.
- ▶ **The racialization of crime.** A great deal of scholarship has been devoted to the ways in which race influences Americans' attitudes about crime and punishment, and the consensus is that crime in America is racialized, i.e. experienced by whites (and others) in racial terms.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

- ▶ **The intersection of immigration and criminal justice.** Current immigration enforcement, with its emphasis on the identification, arrest, detention, and deportation of “criminal aliens” by local law enforcement, has blurred the line between immigration control and criminal justice. There is evidence that this has affected Americans’ assessment of a “Latino threat” and increased their support for aggressive policing and profiling.
- ▶ **The “violent” versus “nonviolent” label.** The frequent labeling of crimes as “violent” or “nonviolent” in the public discourse may have created an unhelpful dichotomy in the minds of most Americans that reduces support for sentencing reform.
- ▶ **Systemic versus individual causes of crime.** There is little recent data on what Americans currently think about the root causes of crime. The question was most recently asked in an explicit way in 2006. At that time, when presented with a list of five possible main causes of crime, Americans favored two individual causes, choosing either drugs or the breakdown of the family as the major factor.

RECOMMENDATIONS:

1. REINFORCE AND EXPAND PUBLIC SUPPORT FOR REAL REFORM

- ▶ Most Americans believe that *“people who have committed serious crimes can turn their lives around and move away from a life of crime with the right kind of help.”* Build on this belief by publicizing both studies and specific examples of successful reentry and reintegration. Be careful when telling stories of individuals who have come out of prison and given back not to give the impression that this is unique or even unusual. Emphasize that many thousands of formerly incarcerated people who have been offered sound educational and employment opportunities have been successful. Showcase successful, government-funded reentry roundtables and programs, especially those that have been shown to reduce recidivism.
- ▶ Emphasize *prevention* and define it holistically. Americans support the idea of prevention, but may have a narrow view of what it means. It’s not just evening basketball for “inner city youth.” Healthy communities are safe communities, and healthy communities are communities that have good schools, good jobs, good housing, good health care, etc. That is what effective crime prevention entails. Keep hammering on the link between crime, hopelessness, and lack of opportunity.
- ▶ A majority of Americans believe that *“it is important for the country to reduce its prison population”* and a plurality of Americans say the main reason is *“because sentences are disproportionately severe.”* This message should be front and center and repeated as often as possible until it becomes a widely accepted fact. Once the public understands that reducing the length of sentences is critical to ending mass incarceration, support for specific sentencing reforms will be easier to build and sustain.
- ▶ The corollary to the above point is to show through existing credible studies *that long sentences do not improve public safety*. Studies that have examined the public safety effects of imposing longer periods of imprisonment have consistently shown that

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

harsher sentences have little deterrent effect.² The same public safety outcomes can be realized with shorter sentences.

2. PROACTIVELY TACKLE PROBLEM AREAS

- ▶ Keep reminding audiences that the criminal justice system is discriminatory at every stage, from policing through to sentencing and the death penalty. Emphasize the roles of unconscious or implicit bias and structural racism in producing very disparate outcomes for white people and people of color.
- ▶ Change the language. Take care not to use terms like “offender,” “ex-offender,” “ex-convict,” “inmate,” and “ex-felon.” Refrain from describing crimes as “nonviolent” whenever possible. The movement prefers phrases like “incarcerated person,” “formerly incarcerated person,” and “returning citizen.” Use the term “discrimination” rather than “disparities.”
- ▶ Emphasize that mass incarceration is a *serious American problem* that affects the country as a whole. Invoke the values of fairness, equal treatment, second chance, and community.
- ▶ Conduct more public opinion research on:
 - ▶ How to talk about people convicted of serious offenses. The ACLU research cited in this report offers some promising hints at what might work, but more research would be helpful.
 - ▶ How to disentangle criminal justice and immigration reform. The deportation of hundreds of thousands of people labeled “criminal aliens” has contributed to the linkage of *crime* and *immigrants* in the public discourse. This, in turn, has led to an increase in support for aggressive immigration enforcement. More research would help in developing a communications strategy to overcome this problem.

² See Valerie Wright, Ph.D., “Deterrence in Criminal Justice Evaluating Certainty vs. Severity of Punishment,” 2010, The Sentencing Project, <http://www.sentencingproject.org/wp-content/uploads/2016/01/Deterrence-in-Criminal-Justice.pdf>.

INTRODUCTION

Since our last meta-analysis of public opinion research on attitudes towards criminal justice issues was published in August 2014, there has been a great deal of public discussion about the crisis of mass incarceration, and an unprecedented number of reforms have been enacted by states in every region of the country. Some of these reforms were voted into law by public referenda; others came about through the legislative process. Just to give the reader a sense of the scope of these changes, in 2014 and 2015, 16 states created or expanded opportunities to divert people away from the criminal justice system, 29 states took significant steps to reduce their prison populations, six states placed limits on solitary confinement, and 32 states established supports for individuals reentering the community after incarceration.³ Although little was accomplished by the legislative branch at the federal level in spite of bipartisan support for reform, the executive branch implemented important changes, signaling a move away from federal policies based on punishment and retribution. These included a record number of sentence commutations by President Barack Obama for people serving lengthy sentences for drug convictions⁴ and a ban on solitary confinement for juveniles in federal prisons.⁵ This relatively rapid about-face after four decades of increasing punitiveness has been met by little in the way of a public backlash. Except for some resistance to some specific measures from local police and prosecutors, recent surveys show that most Americans, including voters in the most conservative states, are on board.

This report is based on a review of about 50 public opinion surveys and polls, most of them conducted between June 2014 and June 2016. Many of them are based on state rather than national samples, reflecting the fact that most of the action has been at the state level. The research included covers American attitudes towards a range of policy issues that comprise the criminal justice reform agenda. By looking at the research holistically, we can see a definite pattern emerging as Americans' attitudes towards crime, punishment, prevention, rehabilitation, and reintegration evolve towards what some scholars are describing as a new

³ Rebecca Silber, Ram Subramanian, and Maia Spotts, "Justice in Review: New Trends in State Sentencing and Corrections 2014–2015," The Vera Institute, May 2016.

⁴ *Ibid.*, p. 6.

⁵ Juliet Eilperin, "Obama bans solitary confinement for juveniles in federal prisons," *The Washington Post*, January 26, 2016, https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8_story.html.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

“public penal philosophy away from a simplistic and one-dimensional emphasis on ‘toughness’ and towards a focus on effective, compassionate, and just goals.”⁶ A group of researchers who conducted an important study of Texas voters’ attitudes towards various criminal justice reforms believes the results of their study and others “suggest that a transformation in Americans’ sensibility about corrections may be occurring”:

Three core elements characterize this new sensibility about corrections. First, in policy choices, prison no longer automatically trumps other options, whether in how to sentence offenders or where to devote scarce resources.⁶ Second, offenders are no longer uniformly objectified and vilified as “the other” and seen as creatures having no worth.... Third, and perhaps most important, offenders are now conceptualized as varying in risk level.⁷

The research also points to a number of longstanding and difficult challenges advocates still face as they push for meaningful and far-reaching change. These include the racialization of crime, the unhelpful dichotomy in the public discourse between “violent” and “nonviolent” crimes, and the American public’s tendency to attribute crime to individual rather than systemic causes. But clearly there is reason to be optimistic about the continuing process of reform. This is the time to be pro-active in promoting real solutions to the crisis of mass incarceration that are based on the values of justice, opportunity, voice, redemption/second chance, and community.

⁶ Kevin M. Drakulich and Eileen M. Kirk, “Public Opinion and Criminal Justice Reform: Framing Matter,” *Criminology & Public Policy* 15 (1), 2016.

⁷Angela J. Thielo, et al., “Rehabilitation in a Red State: Public Support for Correctional Reform in Texas,” *Criminology & Public Policy* 15(1), 2016.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

METHODOLOGY

The public opinion section of this report is based on a meta-analysis of attitudinal tracking surveys and recent public opinion studies by nationally known and reputable research organizations, media outlets, and issue groups. Most of the data examined are publicly available; some come from proprietary research that was made available to The Opportunity Agenda for the purposes of this report. We reviewed original data from more than 50 public opinion studies (*see Appendix*). These studies meet The Opportunity Agenda's standards and best practices for quality and objective public opinion research, including appropriate sample size and a methodologically sound design.

Because this scan investigates existing opinion research, we are limited by the data in our ability to analyze the views of all demographic groups on all issues. Whereas surveys often include adequate samples of African Americans and more recently, Latinos, to disaggregate their views, this is generally not the case with Asian Americans, Native Americans, and other groups. Wherever the data allowed, we have analyzed separately and together the views of each identifiable demographic group for this report.

Since opinion research has largely adopted racial categories utilized by the federal government, this report uses these categories as appropriate. The categories are defined as follows:

- White: any person who self-identifies as white only and non-Hispanic
- Black: any person who self-identifies as black only
- Hispanic: any person of any race who self-identifies as Hispanic
- Asian: any person who self-identifies as Asian only

FINDINGS

I. AMERICANS ARE BECOMING LESS PUNITIVE

After 40 years of public support for harsh criminal justice policies, public opinion research points in the direction of a significant thaw that could, over time, produce an actual paradigm shift, away from punitiveness and towards prevention, rehabilitation, and reintegration as corrections policy goals. According to one group of scholars, “a turning point in public punitiveness appears to have transpired.”⁸ Political scientist Mark D. Ramirez has constructed a way to measure what he calls “punitive sentiment,” defined as “the aggregate public support for criminal justice policies that punish offenders.”⁹ He examines trends in the responses to four questions relating to different punitive policies that have been asked repeatedly over time by public opinion researchers: support for capital punishment, tougher judicial sentencing, increasing the authority of law enforcement, and increasing spending for tougher police enforcement. By plotting these four indicators across time, a pattern emerges. According to his analysis, punitive sentiment began to increase in the mid-1970s and reached its apex in the mid-1990s. It has been on a downward trajectory ever since, and today punitive sentiment is about where it was in 1973, before the era of “law and order” took firm hold.¹⁰

8 Ibid.

9 Mark D. Ramirez, “Punitive Sentiment,” *Criminology*, Vol. 51(2) 2013 329-364.

10 The politics of law and order began to gain traction during the 1960s in the aftermath of the civil unrest in many urban centers. See Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s*, 2005. But it really gained ascendance with the passage of the Rockefeller drug laws in New York in 1973. From that point on, the “soft on crime” label became anathema, and more punitive laws were enacted at the state and federal levels.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

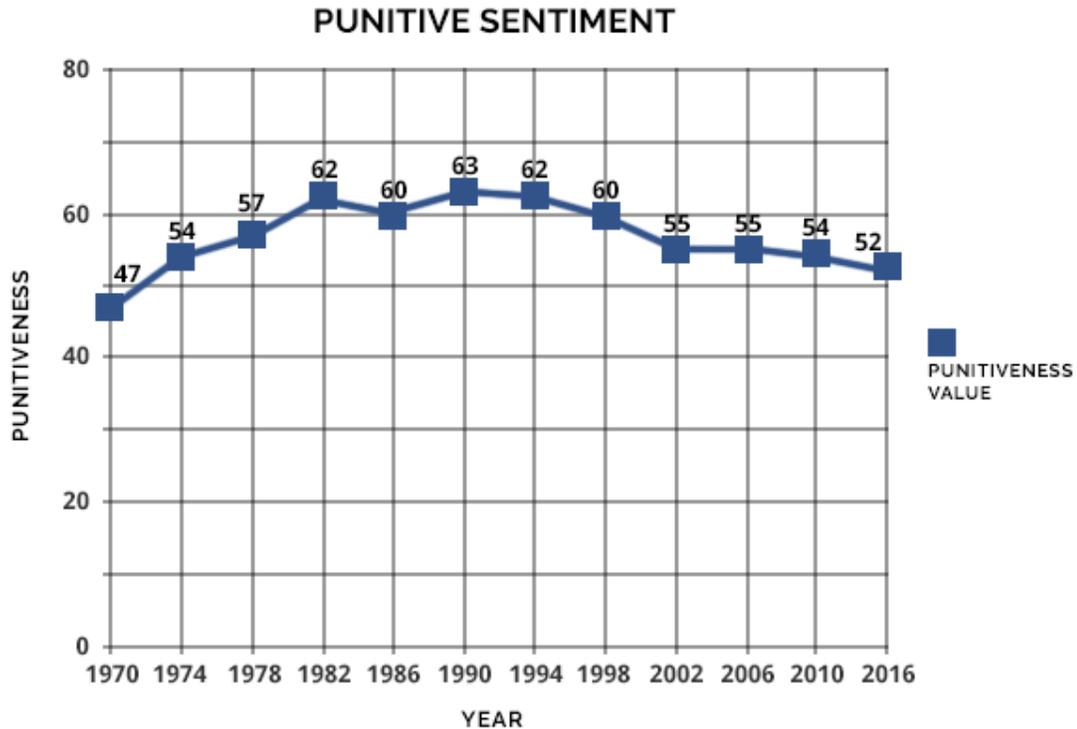


Figure 1. Source: Mark Ramirez¹¹

A softening of punitive sentiment since the mid-1990s is reflected in the responses to questions that have been repeatedly included in national surveys such as the General Social Survey and the Gallup Poll. In 1994, a full 85 percent believed that “courts do not deal harshly enough with criminals.” By 2014 that number had dropped 27 points to 58 percent.¹² Support for the death penalty has also dropped substantially, although it is still favored by a majority of Americans. In 1994, 80 percent said they favored the death penalty for a person convicted of murder and only 16 percent were against it. By 2015 that figure had dropped to 61 percent with 37 percent opposed.¹³ In 1994, 63 percent of the public thought the country was spending too little money on law enforcement. By 2014 only 46 percent thought so, an all-time low.¹⁴

¹¹ Data based on e-mail from Mark Ramirez, March 10, 2016.

¹² AP & NORC, Issue Brief: “Crime and Law Enforcement in America: Racial and Ethnic Differences in Attitudes Towards the Criminal Justice System, 2015.

¹³ Gallup Poll, October 2015.

¹⁴ AP & NORC, Issue Brief: “Crime and Law Enforcement in America: Racial and Ethnic Differences in Attitudes Towards the Criminal Justice System,” 2015.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

The decline in punitive sentiment over time can be seen in how Americans identify the main purpose of prisons and the criminal justice system. In 1994 an ABC News Poll queried, “What do you feel is the main purpose of prisons. Is it to... keep criminals out of society, punish criminals, or rehabilitate criminals?” Fifty-three percent chose incapacitation (keeping criminals out of society), 29 percent chose punishment, and *only 16 percent chose rehabilitation*.¹⁵ According to The Opportunity Agenda’s Opportunity Survey, 20 years later when asked how society would be better served by the criminal justice system, 54 percent chose “stricter punishment for people convicted of crimes” but *46 percent chose “greater effort to rehabilitate people convicted of crimes”* reflecting a significant evolution in public attitudes.¹⁶ The groups most supportive of rehabilitation as a goal are blacks (59 percent), Asian Americans (53 percent), people between the ages of 18 and 29 (53 percent), Democrats (56 percent), and people with college and post-graduate degrees (52 percent and 66 percent, respectively).¹⁷

According to several state surveys, in recent years the goal of rehabilitation has moved to the top and punishment as the principal goal has fallen out of favor. When asked what they thought should be the “main emphasis in most prisons,” 53 percent of Oregonians chose rehabilitation, compared to 37.5 percent who chose “protect society” and only 9 percent who chose “punishment.”¹⁸ In early 2016, voters in six states overwhelmingly agreed with the following statement:

15 ABC News. ABC News Poll, Nov, 1994 [survey question]. USABC.5472.Q010. ABC News [producer]. Storrs, CT: Roper Center for Public Opinion Research, iPOLL [distributor] (accessed 19 Mar. 2016).

16 The Opportunity Survey, The Opportunity Agenda and Langer Research Associates, February-March 2014.

17 Ibid., cross-tabs on file with The Opportunity Agenda. On this question, Latino responses are almost identical to white responses: 42 percent choose rehabilitation and 58 percent choose stricter punishment. There were no differences in the responses based on sex.

18 Jody Sundt, et al., “Public Willingness to Downsize Prisons: Implications from Oregon,” *Victims & Offenders*, 10:4, 2015.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

"THE MAIN GOAL OF OUR CRIMINAL JUSTICE SYSTEM SHOULD BE REHABILITATING CRIMINALS TO BECOME PRODUCTIVE, LAW-ABIDING CITIZENS."

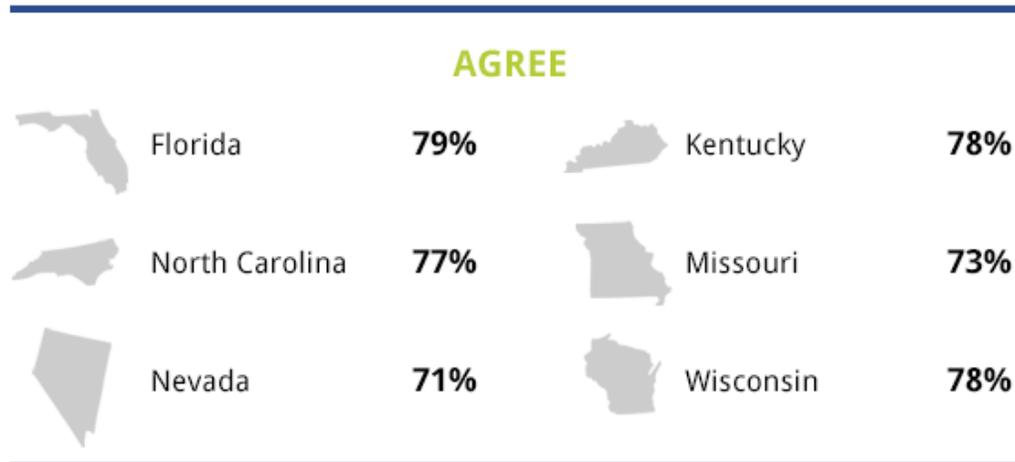


Figure 2. *Source:* The Tarrance Group for U.S. Justice Action Network¹⁹

Massachusetts residents were asked, "Which do you think should be a top priority for dealing with crime?" and given four choices. A plurality of 43 percent chose "prevention, such as education and youth programs," followed by "rehabilitation, such as education and job training for prisoners" (21 percent), "punishment, such as longer sentences and more prisons" (15 percent), and "enforcement, such as putting more police on the streets" (19 percent).²⁰ Polling on specific criminal justice issues supports the notion that punitive sentiment is on the decline. Following are recent surveys on data points Ramirez uses in his punitive sentiment scale.

¹⁹ The Tarrance Group for U.S. Justice Action Network, "Key findings from statewide surveys," January 2016.

²⁰ Massachusetts Criminal Justice Reform Coalition, "Ready for Reform? Public Opinion on Criminal Justice in Massachusetts," April 2014, <http://www.massincpolling.com/?p=1334>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

THE DEATH PENALTY

As noted above, support for the death penalty for people convicted of murder is the lowest it has been since the mid-1970s. These changes in only 19 years—from 1996 until 2015—are substantial.

ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?

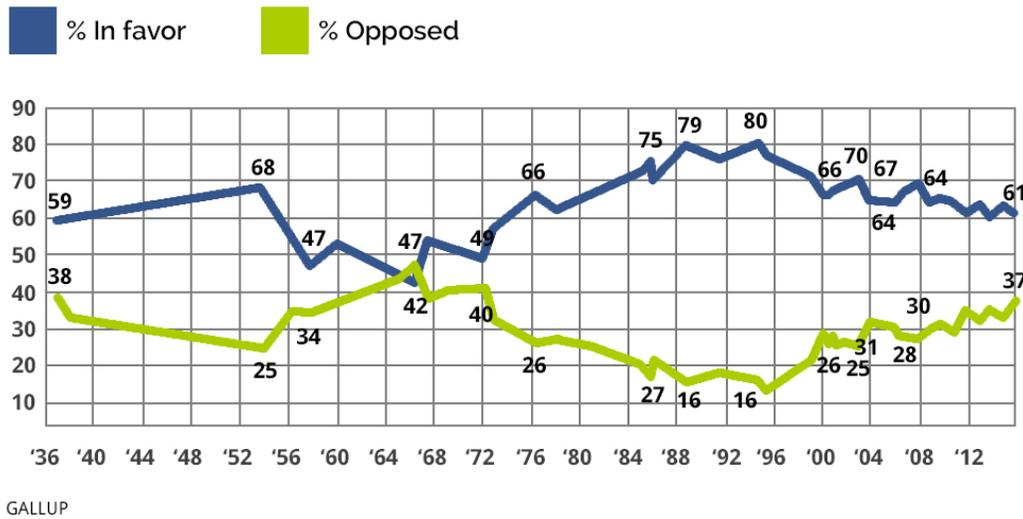


Figure 3. Source: Pew Research Center²¹

There is evidence that a major reason for the drop in support is the public's concern about wrongful convictions. In a 2014 survey by the NBC News Poll, respondents were asked to choose what they believed was the strongest argument against the death penalty. A plurality of 35 percent chose "it carries the risk of killing someone who was wrongly convicted," compared to only 13 percent who cited moral reasons:

²¹ Pew Research Center, March 2015 Political Survey at <http://www.people-press.org/2015/04/16/less-support-for-death-penalty-especially-among-democrats/>

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

STRONGEST ARGUMENT AGAINST THE DEATH PENALTY

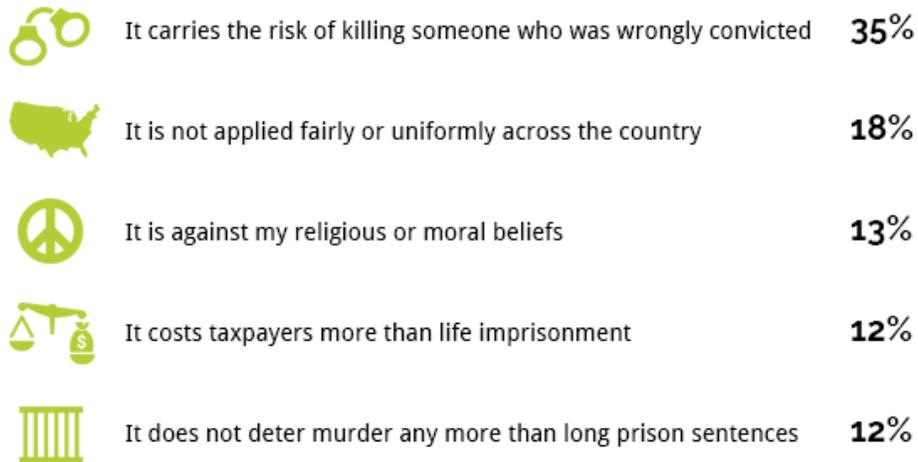


Figure 4. *Source:* NBC News Poll²²

Pew Research Center also probed the reasons people had for support or opposition to the death penalty by presenting respondents with two statements, and asking them to choose the one most similar to their views. As in the NBC News Poll, the opposition message that scored the highest had to do with innocence. When asked between the following statements, 71 percent chose the first, and only 26 percent chose the second:

1. There is some risk that an innocent person will be put to death.
2. There are adequate safeguards to ensure that no innocent person will be put to death.²³

²² NBC News Poll, May, 2014.

²³ Pew Research Center, March 2015 Political Survey at <http://www.people-press.org/2015/04/16/less-support-for-death-penalty-especially-among-democrats/>

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Support drops even further when respondents are given the choice between the death penalty for murder and life imprisonment “with absolutely no possibility of parole.” Fifty percent choose the death penalty and 45 percent choose life imprisonment. There are significant differences based on age, gender, party affiliation, and, especially, race:

SUPPORT FOR DEATH PENALTY VS. LIFE IMPRISONMENT

AGE	18-29	30-49	50-64	65 AND OVER	TOTAL
DEATH PENALTY	41%	52%	54%	52%	50%
LIFE IMPRISONMENT	55%	45%	39%	44%	45%

GENDER	MALE	FEMALE	TOTAL
DEATH PENALTY	54%	47%	50%
LIFE IMPRISONMENT	42%	49%	45%

PARTY	REPUBLICAN	DEMOCRAT	INDEPENDENT	TOTAL
DEATH PENALTY	68%	37%	50%	51%
LIFE IMPRISONMENT	29%	60%	45%	46%

RACE	WHITE	BLACK	TOTAL
DEATH PENALTY	56%	30%	52%
LIFE IMPRISONMENT	40%	65%	44%

Figure 5. *Source:* Gallup Poll²⁴

Opposition to the death penalty on moral/religious grounds is still a minority view and has remained fairly stable over the past 15 years.

²⁴ Gallup Poll, September 2014.

THE DEATH PENALTY IS MORALLY WRONG

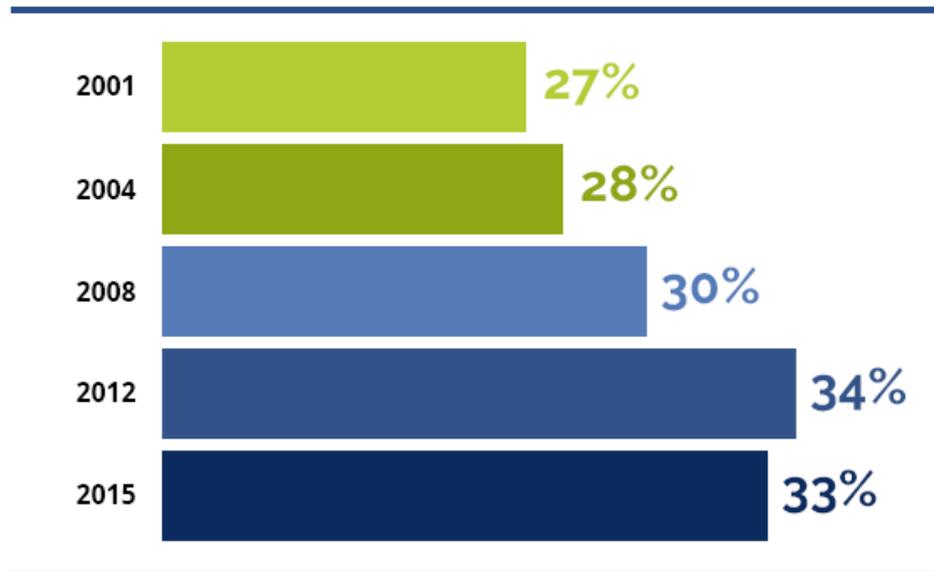


Figure 6. *Source:* Gallup Poll²⁵

Most Americans today do not believe the death penalty deters people from committing serious crimes; only 35 percent believes it does, while 61 percent believes it does not. A majority of Americans (52 percent) agrees that people of color are more likely than whites to be sentenced to the death penalty for committing similar crimes.²⁶

SENTENCING LAWS

Although a majority of Americans continue to believe that courts do not deal harshly enough with “criminals,” support for that idea has dropped significantly over the past 20 years. In 1994, 85 percent thought the courts were not harsh enough; by 2014, that had dropped to 58 percent.²⁷ There are other signs that support for draconian sentencing, a hallmark of the law and order years, is on the wane. In 1994, at the height of the “war on crime,” California voters

²⁵ Gallup Poll Social Series: Values and Beliefs.

²⁶ Pew Research Center, March 2015 Political Survey at <http://www.people-press.org/2015/04/16/less-support-for-death-penalty-especially-among-democrats/>

²⁷ AP & NORC, Issue Brief: “Crime and Law Enforcement in America: Racial and Ethnic Differences in Attitudes Towards the Criminal Justice System, 2015.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

approved the “Three Strikes” Initiative by a margin of 72 percent to 28 percent.²⁸ An attempt in 2004 to reform the law narrowly failed, by a vote of 53 percent to 47 percent.²⁹ Finally, in 2012, California voters overwhelmingly voted in favor of Proposition 36, which revised the Three Strikes law to impose a life sentence only when the new felony conviction is “serious or violent” and made approximately 3,000 people serving life sentences eligible for resentencing.³⁰

Recent surveys show that Americans disapprove of mandatory sentences at least for “nonviolent offenders.” The Public Religion Research Institute (PRRI) asked whether respondents agreed or disagreed with the following statement: “Mandatory minimum prison sentences for nonviolent offenders should be eliminated so that judges can make sentencing decisions on a case-by-case basis.” Seventy-seven percent agreed (35 percent “completely agreed” and another 42 percent “mostly agreed”).³¹

There is also broad support for eliminating federal mandatory minimum sentences. A nationwide survey conducted in January 2016 for the Pew Charitable Trusts posed the following question:

“As you may know, mandatory minimum sentences require those convicted of certain crimes to serve at least a certain length of time in prison. Some people have proposed that instead of mandatory minimums judges have the flexibility to determine sentences based on the facts of each case. Would you find this proposal generally acceptable or generally unacceptable?”

28 The “Three Strikes” Initiative (Proposition 184) doubled the penalty for a second felony if the first one was serious or violent and carried a mandatory prison sentence of 25 years to life for a third felony, regardless of how serious it was. Ballotpedia at [https://ballotpedia.org/California_Proposition_184,_the_Three_Strikes_Initiative_\(1994\)](https://ballotpedia.org/California_Proposition_184,_the_Three_Strikes_Initiative_(1994)).

29 Proposition 66 would have amended the Three Strikes Law to allow a life sentence only if a person is convicted of a third felony that is violent or serious. It would have removed eight crimes from the violent or serious category and toughened sentences for some crimes against children. Ballotpedia at [https://ballotpedia.org/California_Proposition_66,_Changes_in_the_Three_Strikes_Law_\(2004\)](https://ballotpedia.org/California_Proposition_66,_Changes_in_the_Three_Strikes_Law_(2004)).

30 [https://ballotpedia.org/California_Proposition_36,_Changes_in_the_Three_Strikes_Law_\(2012\)](https://ballotpedia.org/California_Proposition_36,_Changes_in_the_Three_Strikes_Law_(2012)) The vote was 69% in favor of Prop. 36 and 31% opposed.

31 PRRI, American Values Post-Election Survey 2014. See also October 2014 Reason-Rupe Poll showing 77% in favor of eliminating mandatory minimum prisons sentences for nonviolent offenders. Reason Foundation, Arthur N. Rupe Foundation. Reason-Rupe Poll, Oct, 2014 [survey question]. USREASON.100914.R17. Princeton Survey Research Associates International [producer]. Storrs, CT: Roper Center for Public Opinion Research, iPOLL [distributor], (accessed 18 Mar. 2016).

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

A very substantial majority of 77 percent said they would find it “acceptable.” It is notable that the question did not use the term “nonviolent,” nor did it define what those “certain crimes” were. The result suggests a strong preference for judicial discretion when it comes to sentencing regardless of the crime, and this is true even among Republicans, 60 percent of whom found it “acceptable.”³²

A series of state polls reveals that support for judicial discretion and reform of mandatory sentencing laws is widespread and exists in both red and blue states. Voters in Florida, North Carolina, Nevada, Kentucky, Missouri, and Wisconsin were presented with two proposals for sentencing reform, and both proposals received majority support. The first proposal is limited to “nonviolent criminals,” but even the second proposal which applies to “all federal prisoners” receives majority support.

SUPPORT FOR SENTENCING REFORM

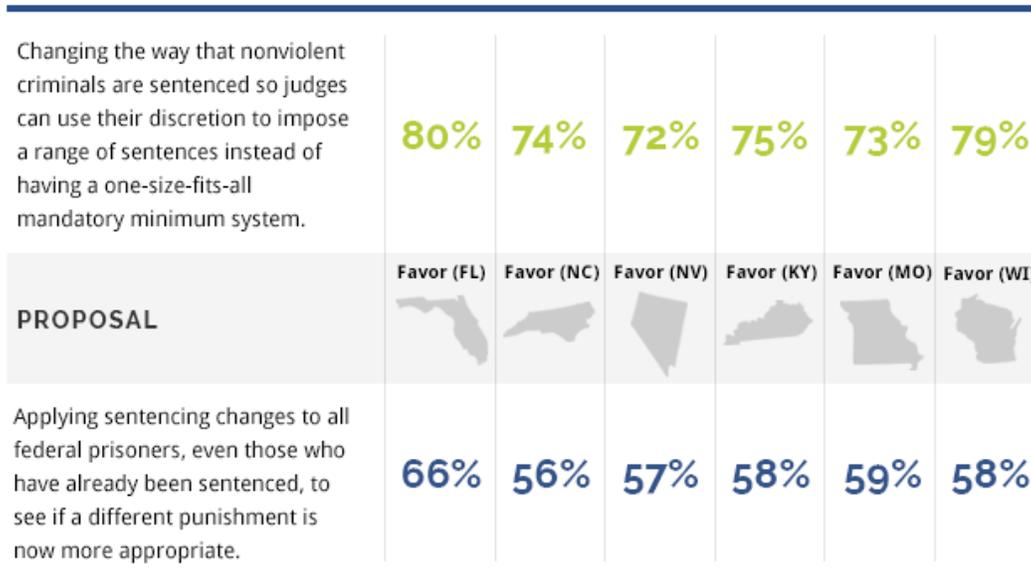


Figure 7. Source: The Tarrance Group³³

32 National Survey Key Findings—Federal Sentencing & Prisons, The Public Safety Performance Project of the Pew Charitable Trusts, 2016, http://www.pewtrusts.org/~media/assets/2016/02/national_survey_key_findings_federal_sentencing_prisons.pdf.

33 The Tarrance Group, Memo to U.S. Justice Action Network, “Key findings from statewide surveys in Florida, North Carolina, Nevada, Kentucky, Missouri, and Wisconsin, January 2016. <http://www.justiceactionnetwork.org/wp-content/uploads/2016/02/Analysis-memo-All-states.pdf>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

A Virginia survey showed that 64 percent of that state's adults agreed that "sentencing should happen at the local level so the judge can use his or her discretion based on the particulars of the case."³⁴

It is in the area of sentencing for drug crimes that the biggest shift in public opinion has occurred. After being presented with statistics showing that nearly half the people in federal prison are there for drug crimes, 61 percent of voters believe "too many drug criminals are taking up too much space in our federal prison system. More of that space should be used for people who have committed acts of violence or terrorism."³⁵ According to a national poll commissioned by the ACLU, the belief that "drug addicts and those with mental illness should not be in prison, they belong in treatment facilities," is almost universal: 87 percent agreed with that statement.³⁶

Attitudes towards marijuana law enforcement began to change in the early 2000s. According to the Gallup Poll, by 2015, 58 percent of Americans supported legalization, including 71 percent of 18 to 34 year olds.³⁷ Not only that, the public has a sense of inevitability about full legalization: 75 percent think the sale and use of marijuana will eventually be legal nationwide.³⁸

Support for easing up on criminal sentences has begun to apply to other illicit drugs as well. In February 2014 the Pew Research Center asked respondents:

"Some states have moved away from the idea of mandatory prison sentences for nonviolent drug offenders. Do you think this is a good thing or a bad thing?"

34 Charles Koch Institute and Prison Fellowship survey conducted by Survey Sampling International, December 2015. <https://www.prisonfellowship.org/about/advocacy/legislation/state-issues/virginia/> Note, however, that a slight majority of Virginians (52 percent) think "it is important to have mandatory minimum sentences."

35 Pew Charitable Trusts, 2016. National Survey Key Findings—Federal Sentencing & Prisons.

36 Memo from Benenson Strategy Group, July 15, 2015, <https://www.aclu.org/other/aclu-nationwide-poll-criminal-justice-reform>.

37 <http://www.gallup.com/poll/186260/back-legal-marijuana.aspx>.

38 Pew Research Center, February 2014 Political Survey.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Sixty-three percent said it was a “good thing” and 32 percent said it was a “bad thing.” When the same question was asked in 2001 the numbers were 47 percent and 45 percent, respectively. Attitudes about drug sentencing have changed radically just in the past decade. Three state polls administered by the Drug Policy Alliance in early 2016 show the same trend towards the decriminalization of drug use, even in a conservative state like South Carolina. In response to the question:

“Some people think we should treat drug use as a health issue and stop arresting and locking up people for possession of a small amount of any drug for personal use. Do you agree or disagree with this sentiment?”

South Carolina voters agreed by a margin of 56 percent to 32 percent; New Hampshire voters by a margin of 73 percent to 16 percent; and Maine voters by a margin of 63 percent to 29 percent.³⁹

TOO MANY PEOPLE IN PRISON

Another sign that the public’s “punitive sentiment” is waning is the growing recognition that too many people are in prison at too great a cost. A nationwide survey commissioned by the ACLU of voters likely to vote in the 2016 presidential election revealed that 69 percent thought it was “important for the country to reduce its prison populations,” including 81 percent of Democrats, 71 percent of independents, and 54 percent of Republicans.⁴⁰ Significantly, of the voters who said reducing the prison population was important, a plurality of 39 percent said the main reason was “because sentences are disproportionately severe” as compared to “because the cost of prison is too high” (29 percent).⁴¹ The survey also showed that the prospect of a reduced prison population did not generate fear in the vast majority of

³⁹ Public Policy Polling. Public Policy Polling/Drug Policy Alliance, January 2016, New Hampshire Survey Results, http://www.drugpolicy.org/sites/default/files/NHResults_012616.pdf.

Public Policy Polling/Drug Policy Alliance, February 2016, Maine Survey Results, http://www.drugpolicy.org/sites/default/files/MaineResults_020916.pdf.

Public Policy Polling/Drug Policy Alliance. February 2016, South Carolina Survey Results, http://www.drugpolicy.org/sites/default/files/SC_poll_0216_PPP.pdf.

⁴⁰ Memo from Benenson Strategy Group, July 15, 2015, <https://www.aclu.org/other/aclu-nationwide-poll-criminal-justice-reform>.

⁴¹ Twelve percent chose “because prison doesn’t rehabilitate.”

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

respondents. When asked to choose between the following two statements, 58 percent chose the first and only 29 percent the second:

1. Reducing the prison population will help communities by saving taxpayer dollars that can be reinvested into preventing crime and rehabilitating prisoners.
2. Reducing the prison population will harm communities because criminals who belong behind bars will be let out.

Even voters who reported having been a victim of crime and were threatened with physical harm (17 percent of respondents) were as likely to support reductions in the prison population as voters overall.

Two recent state polls had similar results. A 2014 survey of Massachusetts residents asked: “Do you think there are too many people in prison in Massachusetts, not enough people in prison, or is the number of people in prison about right?”⁴² A plurality of 40 percent said there were too many, 27 percent said about the right amount, 17 percent said not enough, and a relatively large segment, 16 percent, said they didn’t know.⁴³ When asked whether it would be preferable to build more prisons or reform the system so fewer people are sent to prison, 67 percent chose reform and only 26 percent chose prison building. A survey conducted in December 2015 showed that 75 percent of Virginians thought that the prison population was costing too much money and that 62 percent agreed that “too many people are in prison for nonviolent crimes.”⁴⁴

42 Massachusetts Criminal Justice Reform Coalition, “Ready for Reform? Public Opinion on Criminal Justice in Massachusetts,” January 2014.

43 Note that since this survey was conducted there has been an uptick in public discourse around the state’s prison population. In January 2015 a bill, dubbed the “Jobs Not Jails” bill was introduced with the goal of reducing the state’s prison population by repealing mandatory minimums and passing several other reforms, <https://www.bostonglobe.com/business/2015/01/20/bill-aims-reduce-prison-population-and-divert-savings-jobs-programs/vaZajyGAaiYYO1x0of3ubK/story.html>. A broad-based Jobs Not Jails Coalition has been actively promoting passage, and it is very possible that a poll conducted today would show a higher percentage choosing “too many.”

44 Charles Koch Institute and Prison Fellowship survey conducted by Survey Sampling International, December 2015, <https://www.prisonfellowship.org/about/advocacy/legislation/state-issues/virginia/>.

CRIME AND CRIMINAL JUSTICE REFORM ARE ON THE PUBLIC'S RADAR

In its most recent Religion and Politics survey, conducted in January 2016, the Pew Research Center asked the following question for the first time:

"I'd like to ask you about priorities for President Obama and Congress this year. As I read from a list tell me if you think each should be a top priority, important but lower priority, not too important, or should not be done: reforming the criminal justice system."

Forty-four percent said it was a top priority and 39 percent said it was an important but lower priority. Since the question has not been asked previously, it is impossible to see a trend, but the fact that 83 percent of respondents believe it is either a top or important priority, ahead, for example, of "dealing with global trade issues," suggests that criminal justice reform is on people's minds and has some traction. Responses varied by race and political affiliation, with 73 percent of blacks and 48 percent of Latinos ranking it as a top priority compared to 39 percent of whites. Nearly half of Democrats (49 percent) said it was a top priority, compared with 32 percent of Republicans.

The level of concern about crime also varies by race and ethnicity. When asked "how important are the following issues to you personally," 53 percent say it is a "critical issue," rating it higher in personal importance than the growing gap between rich and poor (48 percent), climate change (34 percent), and race relations (39 percent).⁴⁵ But salience is much higher among black and Latinos. As the graph below shows, 40 percent of whites rank crime as a "major problem" in their community, as compared to 70 percent of blacks and 66 percent of "Hispanics".

⁴⁵ But rating it lower than health care (63 percent), terrorism (62 percent), and jobs and unemployment (60 percent). PRRI, Public Religion Research Institute American Values Survey, Sep, 2015 [survey question]. USPRRI.111715.R29C. Public Religion Research Institute [producer]. Storrs, CT: Roper Center for Public Opinion Research, iPOLL [distributor], (accessed 9 Feb. 2016). When given an open-ended question about "the most important issue facing the next president," crime does not register at all. *USA Today*. Suffolk University/USA Today Poll, Feb 2016 [survey question]. USSUFF.021716.R12. Suffolk University Political Research Center [producer]. Storrs, CT: Roper Center for Public Opinion Research, iPOLL [distributor], (accessed 27 Feb. 2016).

WHICH OF THE FOLLOWING ARE PROBLEMS IN YOUR OWN COMMUNITY?

PERCENTAGE WHO SAY CRIME IS A MAJOR PROBLEM

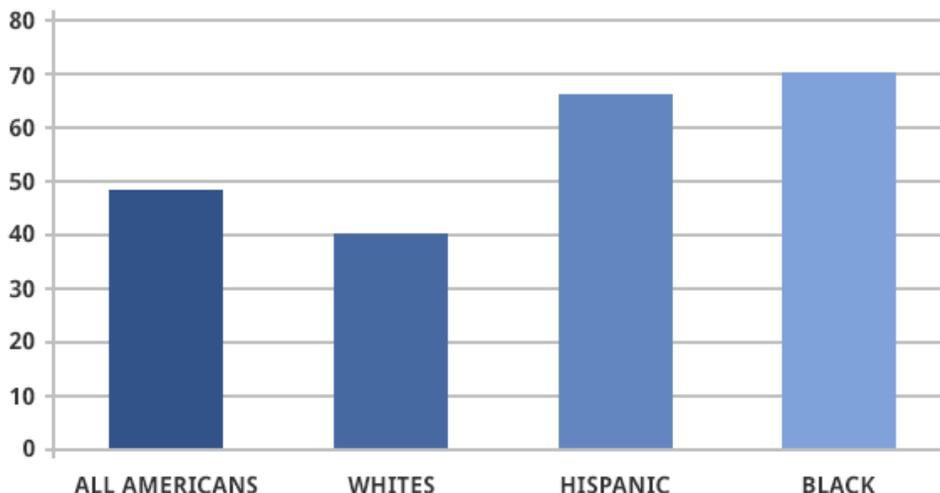


Figure 8. *Source:* PRRI American Values Survey 2015⁴⁶

⁴⁶ PRRI American Values Survey 2015.

II. AMERICANS SUPPORT PREVENTION, REHABILITATION, AND REINTEGRATION

At the same time as punitive sentiment is ebbing, the public is showing considerable support for rehabilitation and alternatives to incarceration. Criminologist Angela J. Thielo has pointed out that this is not a new phenomenon:

Research for more than three decades has shown that although punitive, the American public also supports rehabilitation as a core correctional goal, [along with] prison rehabilitation programs, reentry services, community alternatives, juvenile treatment, and early intervention programs.⁴⁷

Recent public opinion research shows widespread support for rehabilitation.

Thielo and several colleagues conducted a survey of Texas voters in 2013 to gauge support for reforms, some of which had already been enacted by the state legislature.⁴⁸ Because of its comprehensiveness and the fact that respondents are from a conservative state known for its punitive sentiment, this research is worth describing in some detail. Survey questions probed the following issues:

1. Participants were asked to choose what should be the most important priorities for the criminal justice system to focus on when dealing with nonviolent criminals:
 - a. Rehabilitate the criminal.
 - b. Make payments to the victims for damages caused by their crimes.
 - c. Punish the criminal.
 - d. Send a message to would-be criminals.

2. Respondents were asked about their attitudes toward the sanctioning of different types of offenses and were asked to choose between the two following statements:

⁴⁷ Thielo, op cit.

⁴⁸ Thielo, op cit.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

- a. Some people say that regardless of the crime committed, we should send all criminals to prison to help send a signal that Texas doesn't take crime lightly.
 - b. Other people say that some criminals who are facing a first-time or low-level offense shouldn't automatically be sent to prison, thus probation and treatment programs would produce better results.
3. Participants were asked to indicate which of two statements they agreed with more when considering the sanctioning of repeat criminal behavior:
 - a. Some people say that we should spend more money on our prison system so that repeat criminal offenders can be kept away from the public longer.
 - b. Other people say that we should spend more money on funding effective education and treatment programs so that people leaving prison don't commit new crimes.
4. Respondents were asked whether they agreed or disagreed with four specific alternatives to incarceration for nonviolent offenders:
 - a. Nonviolent offenders should have the opportunity to rehabilitate their behavior before facing the prospect of prison time.
 - b. Drug offenders who are not drug traffickers should be placed on probation and receive drug treatment instead of being sent to prison.
 - c. Nonviolent offenders should have the opportunity to repay their victims for any damages caused by their crimes before being sent to prison.
 - d. The cost of imprisoning a nonviolent offender should factor into decisions about whether to send him or her to prison.
5. Participants were asked the following: As you may know, Texas reformed its criminal justice system so that nonviolent drug offenders found guilty of drug possession but not drug trafficking are more likely to be sent to a drug treatment program instead of prison. Based on what you know today, would you say that you support (or oppose) the criminal justice system reform?

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

The results of the survey demonstrated that Texans support rehabilitation as a correctional goal. In fact, rehabilitation was the leading choice of possible goals, selected by more than a third of the sample.

PREFERRED CORRECTIONAL GOALS FOR "NONVIOLENT" OFFENSES

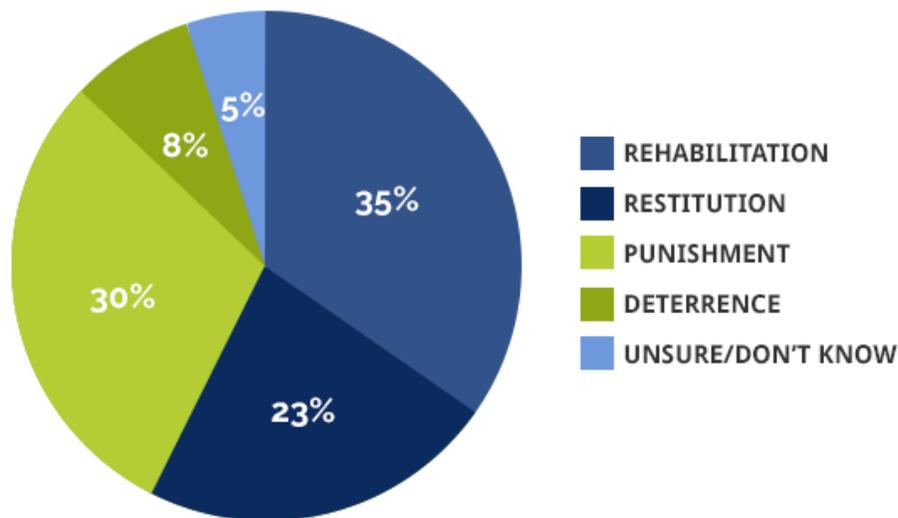


Figure 9. Source: Thomas Baker, et al.⁴⁹

Given a choice between prison and “probation and treatment programs” for “first-time nonviolent offenders,” an overwhelming majority (77 percent) chose the treatment option. Even when the offender was described as a “repeat criminal offender,” a majority of respondents (62 percent) said they would rather spend money on “funding effective education and treatment programs” rather than spend money on the prison system to keep repeat offenders away from the public for longer periods. Responses to the set of four alternatives to incarceration for nonviolent offenders were also lopsided, with between 65 and 85 percent in agreement. Even majorities of conservative Republican white males approved of the four alternatives to incarceration. The researchers concluded that “taken together, these findings indicate that substantial consensus exists in Texas favoring the use of alternatives as opposed to prison for nonviolent offenders.”

⁴⁹ Thielo, op cit., p. 20. See also Thomas Baker, et al., “Examining Public Preferences for the Allocation of Resources to Rehabilitative Versus Punitive Crime Policies, 2015, *Criminal Justice Policy Review* 26(5) 448-462. A national survey conducted in 2009 asked respondents to decide whether their state criminal justice system, not just prisons, should focus more resources on punitive or rehabilitative measures. Thirty-one percent preferred “prevention through intervention,” 20% preferred “skills and employment training,” 28% preferred “punishing offenders,” 11% preferred “treatment,” and 9% preferred “arresting offenders.”

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Other state surveys produced similar results, confirming the finding that the American public now supports approaches based on prevention, rehabilitation, and reintegration:

- ▶ Seventy-two percent of Virginia voters agree that “judges should have more freedom to use forms of punishment other than prison such as civil or community service.” By a 3 to 1 margin, they support reinstating a parole system. And 80 percent of Virginians believe people with felony records should have the right to get work certification licenses after their release.⁵⁰
- ▶ Sixty-nine percent of Kansans believe that rehabilitation is the top priority for juvenile offenders, and 67 percent believe that “getting juvenile offenders treatment, counseling and supervision to make it less likely they will commit another crime, even if that means they spend no time in a correctional facility” is more important than making sure they “receive real punishment.”⁵¹
- ▶ Seventy-five percent of Louisiana voters agree that “money spent on locking up nonviolent offenders should be shifted to other, more locally focused programs” including 50 percent who agree strongly. Ninety-one percent say more rehabilitation and job training programs are needed so offenders can better reenter society after their sentence, and 67 percent support “fair chances” hiring practices that ban the box on job applications, giving those with a criminal record a better chance at securing employment.⁵²

Widespread support for prevention, rehabilitation, and reintegration indicates that the idea that people can change and deserve a second chance is a core belief, and one survey asked this question explicitly. In a national survey of voters commissioned by the ACLU, respondents were asked which statement they agreed with more:

50 Charles Koch Institute and Prison Fellowship survey conducted by Survey Sampling International, December 2015, <https://www.prisonfellowship.org/about/advocacy/legislation/state-issues/virginia/>.

51 The Mellman Group & Public Opinion Strategies, “Kansas Survey Key Findings On Juvenile Corrections Issues, February 23, 2016.

52 Red Oak Strategic, “Overwhelming, Broad, and Extensive Support Across Party, Ideology and Demographics for Criminal Justice Reform in New Louisiana Survey Findings,” November 29, 2015.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

“People who have committed serious crimes can turn their lives around and move away from a life of crime with the right kind of help.”

“People who have committed serious crimes are unlikely to change and will almost always be a danger to society.”

The first statement was preferred by a 2 to one margin, 59 percent to 31 percent.⁵³

⁵³ Benenson Strategy Group, “Research on voters’ attitudes towards violence in the criminal justice system,” January 10, 2016.

III. SOME MOVEMENT ON RACIAL JUSTICE

As will be discussed further below, there is a huge racial divide when it comes to attitudes towards the criminal justice system in general, and the police in particular, with blacks, and to a lesser extent Latinos, believing they experience far less equality and equal treatment than white Americans. There has, however, been some progress. As the chart below shows, significantly more Americans now believe that the criminal justice system is biased against blacks than was the case in earlier years. Between 2007 and 2015, the percentage increased by 13 points, from 36 percent to 49 percent. Between 1995 and 2015 it increased by almost 30 points, and for the first time more Americans believe the system is biased than fair.

In general, do you think the criminal justice system in the U.S. is biased in favor of blacks, or is it biased against blacks, or does it generally give blacks fair treatment?

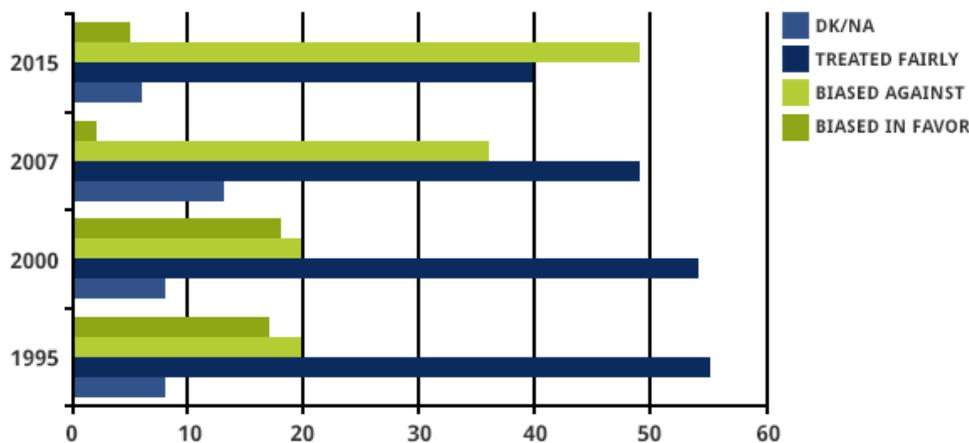


Figure 10. Source: *New York Times/CBS News Poll*⁵⁴

As one would expect, African Americans are much less sanguine about fairness in the criminal justice system. In 2015, 77 percent of African Americans believed the system was biased, as compared to 44 percent of whites, still a minority.⁵⁵

⁵⁴ *New York Times/CBS News Poll on Race Relations in the U.S.*, July 23, 2015, http://www.nytimes.com/interactive/2015/07/23/us/document-new-york-times-cbs-news-poll-on-race-relations-in-the-us.html?_r=0. Whites are now evenly split on this question: 44 percent believe the system is biased, 46 percent believe it is fair, 5 percent believe the system is biased in favor of blacks, and 5 percent don't know. See also CNN/Kaiser Family Foundation, "Survey of Americans on Race," November 2015. <http://kff.org/other/report/survey-of-americans-on-race/>.

⁵⁵ Ibid.

IV. RACIAL DIVIDE IN ATTITUDES TOWARDS THE POLICE

The high-profile police killings of unarmed black people and the protests that followed generated a spate of public opinion research during 2014–16. The big takeaway is that although these events produced some movement among some white Americans towards a greater appreciation of the systemic racism in law enforcement, the black/Latino-white divide on attitudes towards the police remains deep and wide. There is also a wide gap based on political affiliation, with Democrats moving much further along than Republicans, with Independents in between.

CONFIDENCE IN THE POLICE AS AN INSTITUTION

In June 2015, Gallup released the data from its annual “confidence in U.S. institutions” poll which includes a question about the police. The article accompanying the poll results was headlined, “In U.S., Confidence in Police Lowest in 22 Years.” Fifty-two percent of the public had confidence in the police as compared to a high of 64 percent in 2004.⁵⁶ But a closer look at the demographic breakdown reveals only a three-point drop in confidence among whites, from 60 percent in 2012–13 to 57 percent in 2014–15, compared to a seven-point drop among nonwhites, from 49 percent to 42 percent. The biggest drop in confidence was among Democrats: from 55 percent to 42 percent, a 13-point drop. Among Republicans, confidence actually went up by one point, from 68 to 69 percent. A YouGov/ *Huffington Post* survey conducted in July 2015 showed that when asked, “Do you have a favorable or unfavorable opinion of police officers in your community?” 65 percent said “favorable” and 25 percent said “unfavorable” with the balance responding “unsure.” Again, the racial differences are extreme: 70 percent of whites said “favorable” compared to only 43 percent of blacks and 49 percent of Latinos. Fifty-seven percent of Democrats said “favorable” compared to 81 percent of Republicans.⁵⁷

⁵⁶ Jeffrey M. Jones, “In U.S., Confidence in Police Lowest in 22 Years,” Gallup, June 19, 2015.

⁵⁷ YouGov/ *Huffington Post* survey, July 23–27, 2015, <https://today.yougov.com/news/2015/07/29/poll-results-police/>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Whites and people of color report very different subjective responses to encounters with the police. Half of whites say they have “a great deal of confidence” in the police to gain the trust of those they serve compared with only 22 percent of blacks.⁵⁸ Whites are much more likely than blacks or Latinos to say their experience with the police has been “mostly good.”

HAVE YOUR PERSONAL EXPERIENCES WITH THE POLICE BEEN MOSTLY GOOD, MOSTLY BAD, OR MIXED?

	TOTAL	WHITE	BLACK	HISPANIC
 MOSTLY GOOD	46%	52%	32%	26%
 MIXED	23%	22%	27%	25%
 MOSTLY BAD	7%	6%	12%	8%
 NO EXPERIENCE	19%	18%	21%	26%
 NOT SURE	4%	2%	8%	15%

Figure 11. Source: YouGov/Huffington Post ⁵⁹

The striking difference in response to the following question shows how, when it comes to the police, black and white Americans occupy different realities:

⁵⁸ McClatchy-Marist Poll, “Ferguson and Beyond: Race Permeates Views of Law Enforcement, December 15, 2014. <http://maristpoll.marist.edu/1215-ferguson-and-beyond-race-permeates-views-of-law-enforcement/>.

⁵⁹ YouGov/Huffington Post op cit.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

HAVE YOU EVER WARNED YOUR CHILDREN TO BE CAREFUL WHEN DEALING WITH THE POLICE?

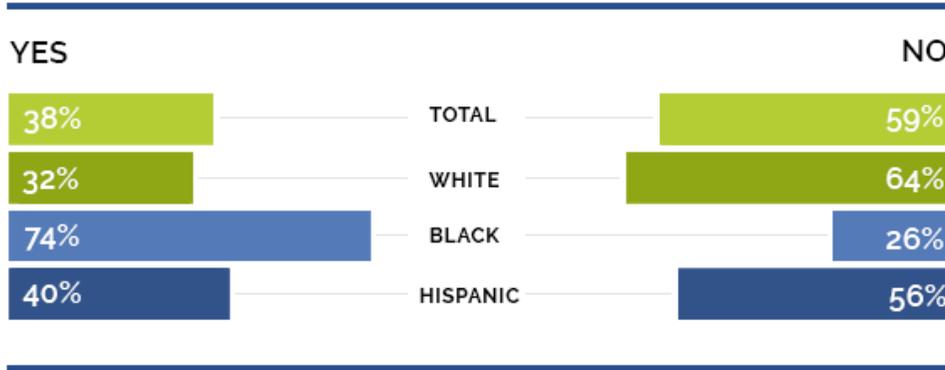


Figure 12. Source: Ibid⁶⁰

DO THE POLICE TREAT EVERYONE EQUALLY?

People of color and whites have very different assessments of whether the police treat everyone equally:

THINKING ABOUT THE COMMUNITY WHERE YOU LIVE AND WORK, DO YOU THINK THE LOCAL POLICE TREAT MINORITIES MORE HARSHLY, LESS HARSHLY, OR JUST AS THEY DO ANYONE ELSE?

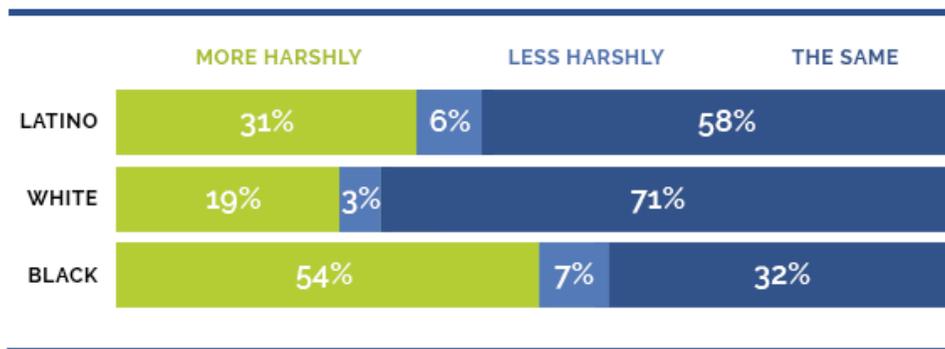


Figure 13. Source: MSNBC/Telemundo/Marist Poll⁶¹

⁶⁰ Ibid.

⁶¹ MSNBC/Telemundo/Marist Poll, "Immigration Reform and Race Relations, September 15, 2015, <http://maristpoll.marist.edu/914-issues-2016-immigration-reform-and-race-relations/>. See also McClatchy-Marist Poll, "Ferguson and Beyond: Race Permeates Views of Law Enforcement, December 15, 2014, <http://maristpoll.marist.edu/1215-ferguson-and-beyond-race-permeates-views-of-law-enforcement/>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Responses to the following question about “police in most cities” reflect both the racial and the partisan divide:

DO YOU AGREE OR DISAGREE: THESE DAYS POLICE IN MOST CITIES TREAT BLACKS AS FAIRLY AS THEY TREAT WHITES.

	TOTAL	WH	BLK	HISP	DEM	IND	REP
 AGREE	38%	47%	6%	20%	16%	40%	67%
 DISAGREE	40%	31%	76%	56%	65%	35%	14%
 NOT SURE	22%	22%	18%	24%	19%	25%	19%

Figure 14. Source: YouGov/Huffington Post⁶²

White responses to a similar question posed by the Public Religion Research Institute at about the same time were somewhat different. Asked whether they or agreed or disagreed with the statement, “Police officers generally treat blacks and other minorities the same as whites,” 50 percent agreed, but 48 percent disagreed, suggesting that white Americans are evenly split on the question.⁶³

Recent surveys of Latinos show disquiet about their treatment by the police. One out of three Latinos thinks they are “usually treated unfairly” by local police, border patrol, and other law enforcement authorities.⁶⁴ And 20 percent of Latinos report that they have personally been treated unfairly by the police.⁶⁵

Americans today are a bit more likely to believe that blacks are treated unfairly “in dealing with the police, such as traffic incidents” than they were a decade ago. In 2007, 37 percent

⁶² YouGov/Huffington Post, op cit.

⁶³ Public Religion Research Institute, American Values survey 2015.

⁶⁴ W.K. Kellogg Foundation, National Survey of Latino Households, September 19–October 15, 2014, http://www.latinodecisions.com/files/3814/1582/4627/Topline_Results_WKKF_State_of_the_Latino_Family_2014.pdf.

⁶⁵ Robert Wood Johnson Foundation Center for Health Policy, Latino National Health Survey, March 24, 2015, http://www.latinodecisions.com/files/1214/2707/3700/UNM_RWJF_Center_Toplines_Posted.pdf.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

thought so; by 2015 forty-three percent thought so.⁶⁶ In response to the question, “In general do you think the police stop people of certain racial or ethnic groups because they believe that these groups are more likely than others to commit certain types of crimes, or don’t you think this happens?” 65 percent say it happens. But in response to another question in the same survey about the use of deadly force, a slight majority denies race plays a role:

“In general do you think that the police in most communities are more likely to use deadly force against a black person or more likely to use deadly force against a white person, or don’t you think race affects police use of deadly force?”

Forty percent believe the police are more likely to use deadly force against a black person, but 51 percent believe race does not matter. The racial divide is stark in responses to both of these questions. In the first instance regarding “police stops,” 61 percent of whites think racial profiling happens compared to 88 percent of blacks. In the second instance regarding use of deadly force, the comparable figures are 33 percent of whites compared to 84 percent of blacks.⁶⁷

POLICE ACCOUNTABILITY

Divisions based on race are also reflected in surveys that have probed attitudes towards police accountability. According to a CNN poll taken shortly before the announcement of the Missouri grand jury’s decision not to indict police officer Darren Wilson for the death of Michael Brown, 54 percent of nonwhites (blacks, Latinos, and Asians) said Wilson should be charged with murder, while just 23 percent of whites agreed.⁶⁸ A December 2014 poll by CBS News probing reactions to both the decision of the Missouri grand jury and a Staten Island grand jury’s decision not to indict NYPD officer Daniel Pantaleo in the death of Eric Garner showed the same racial divide:

66 Gallup, “Americans’ Satisfaction with Way Blacks Treated Tumbles,” August 4, 2015, <http://www.gallup.com/poll/184466/americans-satisfaction-blacks-treated-tumbles.aspx>.

67 CBS News Poll, December 2014, <http://www.cbsnews.com/news/michael-brown-and-eric-garner-the-police-use-of-force-and-race/>. Note that this poll was taken after Michael Brown and Eric Garner were killed, but before Freddie Gray and Tamir Rice were killed.

68 CNN, “Poll finds racial divide over Wilson charges,” November 24, 2014, <http://www.cnn.com/2014/11/24/politics/ferguson-wilson-cnn-poll/>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

FEELINGS ABOUT THE MICHAEL BROWN GRAND JURY DECISION

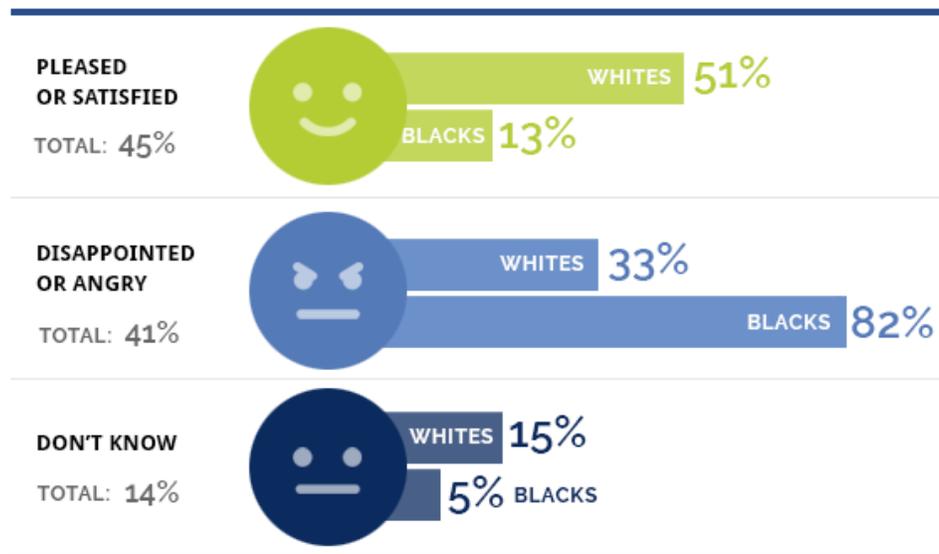


Figure 15. Source: CBS News Poll⁶⁹

FEELINGS ABOUT THE ERIC GARNER GRAND JURY DECISION

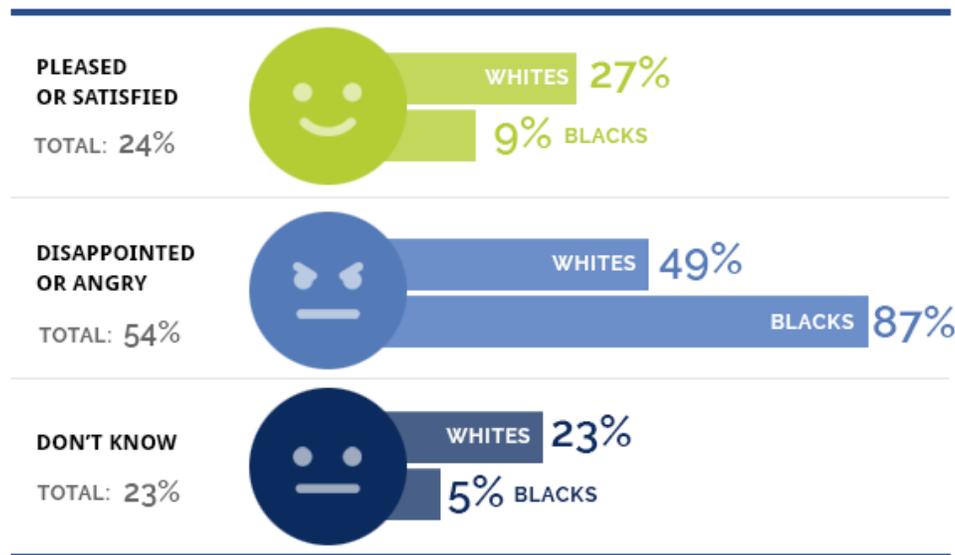


Figure 16. Source: CBS News Poll

69 CBS News Poll, "Michael Brown and Eric Garner: The police, use of force, and race," December 10, 2014, <http://www.cbsnews.com/news/michael-brown-and-eric-garner-the-police-use-of-force-and-race/>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

A much higher percentage of people of color thought the federal government should bring civil rights charges against Darren Wilson than did whites. Seventy-five percent of blacks and 50 percent of Latinos thought it should, compared to 23 percent of whites.⁷⁰ But in May 2015, a strong majority of 65 percent overall thought it was the “right decision” to bring criminal charges against Baltimore police officers for the death of Freddie Gray. Still, racial and partisan divisions persisted: 60 percent of whites compared to 78 percent of blacks thought it was the right decision, as did 75 percent of Democrats and only 45 percent of Republicans.⁷¹

BLACK LIVES MATTER MOVEMENT

In response to the question, “From what you have heard or seen about Black Lives Matter, do you mostly agree or mostly disagree with Black Lives Matter, or don’t you have an opinion either way,” overall 34 percent say they mostly agree, 24 percent say they mostly disagree, and a relatively large percentage, 38 percent, say they don’t have an opinion.⁷² Blacks, Latinos, and whites differ in their assessments, with black Americans views much more positive than whites and Latinos. Thirty-one percent of both whites and Latinos say they “mostly agree” compared to 65 percent of blacks. The same percentage of whites and Latinos say they “mostly disagree” (27 percent) compared to only 5 percent of blacks. And approximately a third of all three groups say they don’t have an opinion either way.⁷³

Some sense of the basis for white and Latino disapproval of Black Lives Matter is revealed in another question in the same survey. When asked to choose between the following two statements:

a) Black Lives Matter focuses attention on the real issues of racial discrimination

70 McClatchy-Marist Poll, op cit.

71 Pew Research Center, “Multiple Causes Seen for Baltimore Unrest,” May 4, 2015, <http://www.people-press.org/2015/05/04/multiple-causes-seen-for-baltimore-unrest/>.

72 PBS NewsHour/Marist Poll, “Race Relations in the United States,” September 2015.

73 Ibid. People between the ages of 18 and 29 and Democrats are more supportive than the general public, with 42 percent of young people and 51 percent of Democrats saying they mostly agree with Black Lives Matter.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

- b) Black Lives Matter distracts attention from the real issues of racial discrimination

the same division appears, with 65 percent of blacks choosing (a) and 59 percent and 57 percent of whites and Latinos, respectively, choosing (b).⁷⁴

POLICING REFORMS

Americans are more united when it comes to some of the policing reforms under public discussion. A 60 percent majority of Americans say they oppose racial profiling by the police and support a ban on the practice.⁷⁵ Majorities of all groups (62 percent of whites, 71 percent of blacks, and 67 percent of Latinos) agree that “policies and system-wide training programs should be put in place to prevent” racial profiling.⁷⁶ Large majorities of both blacks and whites (92 percent and 86 percent, respectively) support the use of outside prosecutors in cases of police killings of unarmed civilians. Eighty-eight percent and 87 percent of blacks and whites, respectively think the public should be allowed to videotape the police. And 93 percent of both blacks and whites favor requiring on-duty police officers to wear video cameras “which would record events and actions as they occur.”⁷⁷

74 Ibid.

75 The Leadership Conference Education Fund, “Poll Finds Strong Support for Strict Guidelines and Community Input for Body-Worn Cameras, for Banning Racial Profiling and for Reforming Civil Asset Forfeiture Laws,” October 2015.

76 The Opportunity Survey, The Opportunity Agenda and Langer Research Associates, February-March 2014.

77 Roper Center, “Black, White, and Blue: Americans’ Attitudes on Race and Police,” September 22, 2015, <https://www.google.com/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=Roper+Center+%E2%80%9CBlack%2C+White%2C+and+Blue%3A+Americans+%E2%80%99+Attitudes+on+Race+and+Police>.

V. CHALLENGES

While the overall trends are favorable to change, there are some red flags that advocates should be aware of.

FEAR

Fear of crime and victimization has long been recognized as a driving force behind Americans' attitudes towards criminal justice policy. In general, fear has a strong positive effect on support for *punitive* crime policies. A study examining the impact of fear on public preferences for allocating resources to rehabilitative versus punitive criminal justice policies found that if an individual is more fearful of crime, his or her odds of preferring rehabilitative policies are reduced by 40 percent.⁷⁸

In spite of the widely reported drop in the crime rate year after year since it reached its peak in 1994, according to Gallup's annual Crime Poll, a majority of Americans believe there is "more crime in the U.S. than there was a year ago." Gallup suggests that the seven-point increase from 2014 to 2015, from 63 percent to 70 percent, may be a function of "people reacting to news reports of increased violent crime in many major U.S. cities." Crime may be down, but the homicide spike in Chicago, for example, received national media coverage,⁷⁹ and mass shootings during this period seemed to occur with frightening regularity.⁸⁰

⁷⁸ T. Baker et al., "Examining Public Preferences for the Allocation of Resources to Rehabilitative Versus Punitive Crime Policies," *Criminal Justice Policy Review*, 2015, Vol. 26(5) 448-462.

⁷⁹ See, e.g., "Spike in Violent Crime in Chicago Continues," CBS, March 1, 2016, <http://chicago.cbslocal.com/2016/03/01/spike-in-violent-crime-in-chicago-continues/> and "Homicides in Chicago up 12 percent in 2015," UPI, January 3, 2016, http://www.upi.com/Top_News/US/2016/01/03/Homicides-in-Chicago-up-12-percent-in-2015/9711451832019/.

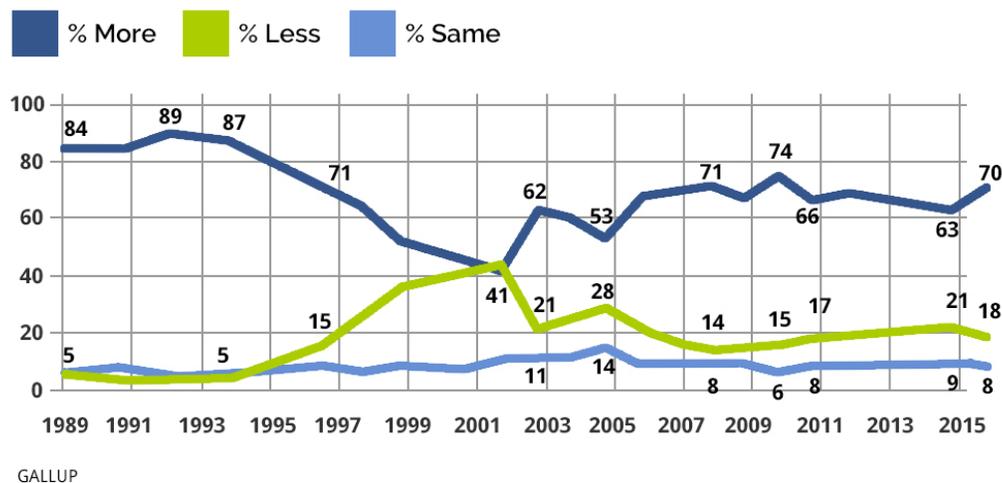
⁸⁰ See Christopher Ingraham, "Shooting in Oregon: So far in 2015, we've had 274 days and 294 mass shootings," *The Washington Post*, October 1, 2015, <https://www.washingtonpost.com/news/wonk/wp/2015/10/01/2015-274-days-294-mass-shootings-hundreds-dead/>; Jen Christianson, "Why the U.S. the most mass shootings," CNN, August 28, 2015, <http://www.cnn.com/2015/08/27/health/u-s-most-mass-shootings/>; and Michelle Gorman, "Another: The 45th School Shooting in America in 2015," *Newsweek*, October 15, 2015, <http://www.newsweek.com/45th-mass-shooting-america-2015-378803>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

PERCEPTIONS OF CRIME ON THE U.S., 1989 - 2015

Is there more crime in the U.S. than there was a year ago, or less?

Figure 17. Source: Gallup.⁸¹

Americans overall are more sanguine about the safety of their own neighborhoods, and the perception that crime is worse nationwide than it is locally has been the case historically.⁸² But significant segments of the public do worry about crime in their local area, and according to PRRI's American Values Survey, concern appears to be rising. In September 2012, 33 percent of respondents said crime was a "major problem" in their own community; by October 2015, that number had gone up to 48 percent. An August 2015 Kaiser Health Tracking Poll asked, "These days, how safe from crime do you feel in your own neighborhood?" Fifty-four percent said "very safe," but another 36 percent said "somewhat safe" and 10 percent said either "Not too safe" or "Not safe at all."

How safe one feels in his or her own neighborhood varies significantly by race and ethnicity, and by age (gender differences appear to be less significant).

⁸¹ Ibid.

⁸² Ibid.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Q. THESE DAYS, HOW SAFE FROM CRIME DO YOU FEEL IN YOUR NEIGHBORHOOD?

	WHITE	BLACK	HISP	18-29	30-49	50-64	65+	MALE	FEMALE
VERY SAFE	61%	32%	40%	49%	53%	54%	60%	57%	51%
SOMEWHAT SAFE	32%	53%	38%	40%	36%	34%	32%	34%	37%
NOT TOO SAFE	5%	7%	14%	5%	7%	9%	5%	6%	7%
NOT SAFE AT ALL	2%	7%	6%	6%	3%	3%	1%	2%	4%

Figure 18. *Source:* Kaiser Health Tracking Poll⁸³

THE RACIALIZATION OF CRIME

A great deal of scholarship has been devoted to the ways in which race influences Americans' attitudes about crime and punishment, and the consensus is that crime in America is racialized, i.e., experienced by whites (and others) in racial terms.⁸⁴ Recent public opinion research probing attitudes on the relationship between crime, race, and ethnicity, however, is sparse. Nazgol Ghandnoosh, Ph.D., of the Sentencing Project, explains that there are two types of questions survey researchers have used to measure the "racial typification of crime":

One approach has been to ask respondents to estimate the racial composition of specific crimes. These studies consistently show that Americans, and whites in particular, significantly overestimate the proportion of crime committed by blacks and Latinos. The second approach to measuring racial perceptions of crime draws on the General Social Survey (GSS). Produced by NORC at the

⁸³ Kaiser Health Tracking Poll: August 2015, cross-tabs provided by <http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-august-2015/>.

⁸⁴ See, for example, Rose M. Brewer and Nancy A. Heitzeg, "The Racialization of Crime and Punishment: Criminal Justice, Color-Blind Racism, and the Political Economy of the Prison Industrial Complex," *American Behavioral Scientist*, 51:625, 2008; and Ian Haney Lopez, "Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism & Wrecked the Middle Class," Oxford University Press, 2014.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

University of Chicago, this long-running survey has asked respondents to rank various racial and ethnic groups on a scale ranging from “tend to be violence-prone” to “tend not to be prone to violence.”⁸⁵ On a scale where 1 refers to not violence-prone and 7 refers to violence-prone, non-Hispanic whites on average rated whites at 3.70, Hispanics at 4.20, and blacks at 4.48.⁸⁵

The NORC question, however, has not been asked since 2000.⁸⁶ We have identified one more recent study that tests what criminologists call the “racial threat theory”: the extent to which whites support punitive criminal justice policies and social control of blacks because they view blacks as a criminal threat. The goal of a study conducted by a group of criminologists at Florida State University was “to understand the often observed relationship between neighborhood racial composition and the perceptions of criminal threat by white residents by examining the extent to which the latter is explained by or contingent on the racial typification of crime.”⁸⁷ The researchers found that perceived neighborhood racial composition was positively related to perceived victimization risk among white Americans, and that changes in composition were especially threatening. Fear of victimization was significantly higher among those respondents who reported that the number of blacks living in their neighborhood had increased in the past five years. They concluded:

In sum, the current study shows that perceived Black population growth increases perceptions of victimization risk among Whites who hold stereotypes of Blacks as criminals.⁸⁸ Stated differently, the evidence suggests that the stereotype of Blacks as criminals, to the extent that perceptions of victimization risk translate into pressure on authorities to control crime, may serve to both mobilize Whites and justify controlling responses in the context of Black population growth.⁸⁸

⁸⁵ See The Sentencing Project, “Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies,” September 2014, http://sentencingproject.org/doc/publications/rd_Race_and_Punishment.pdf.

⁸⁶ Ibid.

⁸⁷ Justin Pickett et al., “Reconsidering the Relationship Between Perceived Neighborhood Racial Composition and Whites’ Perceptions of Victimization Risk: Do Racial Stereotypes Matter?” 2011, *Criminology* 50(1), 145–178.

⁸⁸ Ibid, p. 175.

THE INTERSECTION OF IMMIGRATION AND CRIMINAL JUSTICE ON ATTITUDES TOWARDS LATINOS

The term “crimmigration” was coined by law professor Juliet Stumpf in a law review article published in 2006.⁸⁹ The term reflects the intersection and increasing entanglement of two systems: criminal justice and immigration enforcement. Current immigration enforcement, with its emphasis on the identification, arrest, detention, and deportation of “criminal aliens” by local law enforcement, has blurred the line between immigration control and criminal justice. There is evidence that crimmigration has affected Americans’ assessment of “Latino threat” and increased their support for aggressive policing and profiling.

Based on data collected in 2010, criminologist Justin Pickett tested two hypotheses:⁹⁰

1. Perceptions of Latino economic and political threat will be positively associated with support for expanding police investigative powers.
2. The relationship between perceived Latino threat and support for expanding police powers will be strongest in the case of investigative powers, such as police profiling, that have the clear potential to result in discrimination against Latinos.

The results of Pickett’s analysis bear out both hypotheses: the perception of political and economic Latino threat is associated with support for expanded police powers among white respondents, and the relationship is most pronounced in attitudes towards police profiling. The study shows that even among whites who understand that discrimination will result in aggressive policing of Latinos, increasing anxiety about Latino threat trumps that concern.⁹¹

89 Stumpf, Juliet P., *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, 2006, *American University Law Review*, Vol. 56, p. 367, 2006; Lewis & Clark Law School Legal Studies Research Paper No. 2007-2, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=935547. The Opportunity Agenda discourages the use of the term “crimmigration” by advocates because it tends to reinforce the coupling of immigrants with criminality.

90 Justin T. Pickett, “On the Social Foundations for Crimmigration: Latino Threat and Support for Expanded Police Powers,” (015, *Journal of Quantitative Criminology*, 32(1), https://www.researchgate.net/publication/275352498_On_the_Social_Foundations_for_Crimmigration_Latino_Threat_and_Support_for_Expanded_Police_Powers.

91 Ibid.

THE “VIOLENT” VERSUS “NONVIOLENT” LABEL

The frequent labeling of crimes as “violent” or “nonviolent” in the public discourse may have created an unhelpful dichotomy in the minds of most Americans that reduces support for sentencing reform. It has also affected the framing of questions in recent public opinion research. In their Policy Essay, “Public Opinion and Criminal Justice Reform: Framing Matters,” criminologists Kevin M. Krakulich and Eileen M. Kirk comment on Thielo et al.’s study, “Rehabilitation in a Red State” (see p.6) and point out that the study

“focuses on public support for reforms addressing nonviolent and/or drug offenders. Only approximately one-fifth of the growth in state prison populations can be explained by the increase in drug incarceration, whereas violent offenders explain more than half of the growth. Thus, it is significant that Thielo et al. find, at least, that support for treatment over prison remains for repeat offenders, but if we choose only to focus on them, we are missing a large piece of the reason for prison growth, and we will have a reduced impact on the system at large.”⁹²

There has been minimal research exploring support for reform in the context of “violent” or “serious” crime, but what little there is suggests that while punitive sentiment has declined when the subjects are described as “nonviolent” (often coupled with “drug offenders”) or “first-time offenders” or people convicted of “low-level crimes,” that might not be the case when it comes to those deemed “violent” or “serious” or “repeat offenders.” The label further stigmatizes an already stigmatized population.

In June 2015, the ACLU commissioned research on attitudes towards reducing sentences for “violent offenders” which found that using the word “violent” is “a buzzword that pushes voters away from supporting reforms.”⁹³ But when the researchers tested support for reduced sentences for specific crimes, a potentially important finding emerged. As the chart below shows, the information that someone convicted of armed assault committed the crime

⁹² Kevin M. Krakulich and Eileen M. Kirk, Policy Essay, “Public Opinion and Criminal Justice Reform: Framing Matters,” 2016, *Criminology & Public Policy* 15(1).

⁹³ Memo, Benenson Strategy Group, “Research on voters’ attitudes towards violence in the criminal justice system,” January 10, 2016.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

“fifteen years ago and had a clean record in prison” significantly increased support for a reduced sentence for that individual.

“WHICH OF THE FOLLOWING CRIMES DO YOU THINK SHOULD BE CONSIDERED FOR REDUCED SENTENCES?”

	SHOULD	SHOULD NOT
 Possession of small amount of drugs	81%	17%
 Selling marijuana	74%	22%
 Burglarizing an empty home or business without a weapon	68%	28%
 Armed assault 15 years ago and had a clean record in prison	57%	36%
 Robbing someone without threatening them with a weapon	53%	43%
 Selling cocaine, heroin, or methamphetamine	36%	58%
 Murder more than 15 years ago and had a clean record in prison	29%	67%
 Armed assault	18%	78%
 Robbing someone and threatening them with a weapon	18%	80%
 Murder	7%	92%

Figure 19. *Source:* Benenson Strategy Group

The researchers concluded:

In short, there is undoubtedly hesitation to support criminal justice reforms for violent offenses, which voters believe warrant time behind bars. But focusing on the offenders, rather than the crime, could provide a potential path forward. Specifically:

- ▶ Voters’ belief that even serious offenders can change

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

- ▶ Violent offenders who have served time and had a clean record in prison could be considered for reduced sentencing.
- ▶ A clean record in prison plus the completion of rehabilitation programs demonstrates a commitment to change in the eyes of voters.

They recommend shifting the conversation from the offense to the “offender.”⁹⁴

SYSTEMIC VERSUS INDIVIDUAL CAUSES OF CRIME

There is little recent data on what Americans currently think about the root causes of crime. The question was most recently asked in an explicit way in 2006 in a survey by the National Center for State Courts.⁹⁵ At that time, when presented with a list of five possible main causes of crime, Americans favored two individual causes, choosing either drugs (33 percent) or the breakdown of the family (26 percent) as the major factor. “Poverty” was not included in the list; the closest offered was “unemployment” which was chosen by only 10 percent. Clearly as of 10 years ago, the public overall did not have an understanding of the intersection of crime, poverty, and racism.

Several more recent questions about policing show that black Americans and, to a lesser extent, Latinos, have a clearer understanding than whites that race and class intersect to produce discriminatory outcomes. When asked if the grand jury decisions in Ferguson and Staten Island were “isolated cases and do not reflect an overall problem with the justice system when it comes to race and police officers,” 33 percent of whites said “no” compared to 76 percent of black Americans and 56 percent of Latinos.⁹⁶ As the chart below shows, blacks were more than twice as likely as whites to say the shooting of Michael Brown in Ferguson raised “important issues about race.”⁹⁷

94 Ibid.

95 The NCSC Sentencing Attitudes Survey: A Report on the Findings, <http://www.ncsc.org/~media/Microsites/Files/CSI/The%20NCSC%20Sentencing%20Attitudes%20Survey.ashx>. “Lenient sentencing” was chosen by 8%, “handguns” by 7%, and 16% chose “a combination.”

96 McClatchy-Marist Poll, op cit.

97 Pew Research Center, “Stark Racial Divisions in Reactions to Ferguson Police Shooting,” August 14, 2014, <http://www.people-press.org/files/2014/08/8-18-14-Ferguson-Release.pdf>.

BLACKS MORE LIKELY THAN WHITES TO SAY BROWN'S SHOOTING RAISES RACIAL ISSUES

THINKING ABOUT POLICE SHOOTING OF AN AFRICAN-AMERICAN TEEN IN FERGUSON, MISSOURI, PERCENT SAYING...



Survey conducted August 14-17, 2014. Whites and blacks include only those who are not Latino. Figures may not add to 100% because of rounding.

Figure 20. Source: Pew Research Group

RECOMMENDATIONS

1. REINFORCE AND EXPAND PUBLIC SUPPORT FOR REAL REFORM

- ▶ Most Americans believe that *“people who have committed serious crimes can turn their lives around and move away from a life of crime with the right kind of help.”* Build on this belief by publicizing both studies and specific examples of successful reentry and reintegration. Be careful when telling stories of individuals who have come out of prison and given back not to give the impression that this is unique or even unusual. Emphasize that many thousands of formerly incarcerated people who have been offered sound educational and employment opportunities have been successful. Showcase successful, government-funded reentry roundtables and programs, especially those that have been shown to reduce recidivism.
- ▶ Emphasize *prevention* and define it holistically. Americans support the idea of prevention, but may have a narrow view of what it means. It’s not just evening basketball for “inner city youth.” Healthy communities are safe communities, and healthy communities are communities that have good schools, good jobs, good housing, good health care, etc. That is what effective crime prevention entails. Keep hammering on the link between crime, hopelessness, and lack of opportunity.
- ▶ A majority of Americans believe that *“it is important for the country to reduce its prison population”* and a plurality of Americans say the main reason is *“because sentences are disproportionately severe.”* This message should be front and center and repeated as often as possible until it becomes a widely accepted fact. Once the public understands that reducing the length of sentences is critical to ending mass incarceration, support for specific sentencing reforms will be easier to build and sustain.
- ▶ The corollary to the above point is to show through existing credible studies *that long sentences do not improve public safety.* Studies that have examined the public safety effects of imposing longer periods of imprisonment have consistently shown that

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

harsher sentences have little deterrent effect.⁹⁸ The same public safety outcomes can be realized with shorter sentences.

2. PROACTIVELY TACKLE PROBLEM AREAS

- ▶ Keep reminding audiences that the criminal justice system is *discriminatory at every stage*, from policing through sentencing and the death penalty. Emphasize the roles of unconscious or implicit bias and structural racism in producing very disparate outcomes for white people and people of color.
- ▶ *Change the language.* Take care not to use terms like “offender,” “ex-offender,” “ex-convict,” “inmate,” and “ex-felon.” Refrain from describing crimes as “nonviolent” whenever possible. The movement prefers phrases like “incarcerated person,” “formerly incarcerated person,” and “returning citizen.” Use the term “discrimination” rather than “disparities.”
- ▶ Emphasize that mass incarceration is a *serious American problem* that affects the country as a whole. Invoke the values of fairness, equal treatment, second chance, and community.
- ▶ *Conduct more public opinion research on:*
 - ▶ How to talk about people convicted of serious offenses. The ACLU research cited in this report offers some tantalizing hints at what might work, but more research would be helpful.
 - ▶ How to disentangle criminal justice and immigration reform. The government’s emphasis on “criminal aliens” and the deportation of hundreds of thousands of people under that label has contributed to the linkage of *crime* and *immigrants* in the public discourse. This, in turn, has led to an increase in support for

⁹⁸ See Valerie Wright, PhD, “Deterrence in Criminal Justice Evaluating Certainty vs. Severity of Punishment,” 2010, The Sentencing Project, <http://www.sentencingproject.org/wp-content/uploads/2016/01/Deterrence-in-Criminal-Justice.pdf>.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

aggressive immigration enforcement. More research would help in developing a communications strategy to overcome this problem.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

APPENDIX: WORKS CITED

Allstate/National Journal, February 2015, *Heartland Monitor Poll XXII*, <http://heartlandmonitor.com/wp-content/uploads/2015/03/FTI-Allstate-NJ-Heartland-XXII-Poll-Topline-Results-Feb-27.pdf>.

Anzalone Liszt, Grove Research/The Leadership Conference Education Fund, October 2015, *Poll Finds Strong Support for Strict Guidelines and Community Input for Body-Worn Cameras, for Banning Racial Profiling and for Reforming Civil Asset Forfeiture Laws*, <http://civilrightsdocs.info/pdf/criminal-justice/LCEFPollonCriminalJusticeIssues.pdf>.

AP & NORC, Issue Brief: "Crime and Law Enforcement in America: Racial and Ethnic Differences in Attitudes Towards the Criminal Justice System, 2015," http://www.apnorc.org/PDFs/Crime/Crime%20Trends_FINAL.pdf.

Baker, T., et al., 2015, "Examining Public Preferences for the Allocation of Resources to Rehabilitative Versus Punitive Crime Policies," *Criminal Justice Policy Review*, 265, 448-462.

Benenson Strategy Group/ACLU, July 2015, *Memo to Interested Parties: Nationwide Polling Results*. https://www.aclu.org/sites/default/files/field_document/aclu_polling_cjreform_2015.pdf.

Benenson Strategy Group/ACLU, January 2016, *Research on voters' attitudes towards violence in the criminal justice system*. On file with The Opportunity Agenda.

CBS News Poll, December 2014, *Michael Brown and Eric Garner: The Police, Use of Force, and Race*, <http://www.cbsnews.com/news/michael-brown-and-eric-garner-the-police-use-of-force-and-race/>.

Charles Koch Institute/Prison Fellowship, 2016, *Criminal Justice Reform in Virginia*, <https://www.charleskochinstitute.org/prison-fellowship-and-the-charles-koch-institute-release-results-of-new-virginia-public-opinion-survey-on-criminal-justice/>.

CNN, November 2014, *Poll finds racial divide over Wilson charges*, <http://www.cnn.com/2014/11/24/politics/ferguson-wilson-cnn-poll/>.

CNN/Kaiser Family Foundation, November 2015, *Survey of Americans on Race*, <http://files.kff.org/attachment/topline-methodology-survey-of-americans-on-race>.

Drakulich, K.M., Kirk, E.M., 2016, "Public Opinion and Criminal Justice Reform: Framing Matters," *Criminology & Public Policy*, 151, 1-7.

Gallup, November 2014, *Most Americans Still See Crime Up Over Last Year*, <http://www.gallup.com/poll/179546/americans-crime-last-year.aspx>.

Gallup, June 2015, *In U.S., Confidence in Police Lowest in 22 Years*, <http://www.gallup.com/poll/183704/confidence-police-lowest-years.aspx>.

Gallup Organization, *In Depth Topics A to Z: Death Penalty*, <http://www.gallup.com/poll/1606/death-penalty.aspx>.

Gallup, August 2015, *Immigrant Status Tied to Discrimination Among Hispanics*, <http://www.gallup.com/poll/184769/immigrant-status-tied-discrimination-among-hispanics.aspx>.

Gallup, August 2015, *Americans' Satisfaction With Way Blacks Treated Tumbles*, <http://www.gallup.com/poll/184466/americans-satisfaction-blacks-treated-tumbles.aspx>.

Gallup, October 2015, *More Americans Say Crime is Rising in U.S.*, <http://www.gallup.com/poll/186308/americans-say-crime-rising.aspx>.

Gallup, December 2015, *Americans' Faith in Honesty, Ethics of Police Rebounds*, <http://www.gallup.com/poll/187874/americans-faith-honesty-ethics-police-rebounds.aspx>.

Harvard Institute of Politics, March 2015, *Young Americans' Attitudes towards Politics and Public Service Survey*, http://www.iop.harvard.edu/sites/default/files_new/IOPSpring15%20PollTopline.pdf.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

The Henry L. Kaiser Family Foundation, August 2015, *Kaiser Health Tracking Poll*, <http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-august-2015/>.

The Henry L. Kaiser Family Foundation, February 2016, *Kaiser Health Tracking Poll*, <http://kff.org/global-health-policy/poll-finding/kaiser-health-tracking-poll-february-2016/>.

Marist College Institute for Public Opinion September 2015, *Issues 2016: Immigration Reform and Race Relations*, http://maristpoll.marist.edu/wp-content/misc/usapolls/us150826/Immigration/MSNBC_Telemundo_Marist%20Poll_National%20Release%20and%20Tables_September%202015_Immigration.pdf.

MassINC Polling Group/Massachusetts Criminal Justice Reform Coalition, January 2014, *Ready for Reform? Public Opinion on Criminal Justice in Massachusetts*, <http://www.massincpolling.com/?p=1334>.

McClatchy-Marist Poll, December 2014, *Ferguson and Beyond: Race Permeates Views of Law Enforcement*, <http://maristpoll.marist.edu/1215-ferguson-and-beyond-race-permeates-views-of-law-enforcement/>.

The Mellman Group/Public Opinion Strategies/The Pew Charitable Trusts, February 2016, *National Survey Key Findings—Federal Sentencing & Prisons*, http://www.pewtrusts.org/~media/assets/2016/02/national_survey_key_findings_federal_sentencing_prisons.pdf.

The Mellman Group/Public Opinion Strategies/The Pew Charitable Trusts, February 2016, *Kansas Survey Key Findings on Juvenile Corrections Issues*, http://www.pewtrusts.org/~media/assets/2016/03/public_attitudes_toward_juvenile_justice_in_kansas.pdf.

NBC News Poll, May 2014, <http://www.nbcnews.com/storyline/lethal-injection/americans-weigh-lethal-injections-n105501>.

The Opportunity Agenda and Langer Research Associates, *The Opportunity Survey*, February–March 2014, <http://opportunity-survey.opportunityagenda.org/>.

PBS *NewsHour*/Marist Poll, “Race Relations in the United States,” September 2015, https://maristpoll.marist.edu/wp-content/misc/usapolls/us150910/PBS%20NewsHour_Marist%20Poll_National%20Release_September%202015.pdf.

Pew Research Center, February 2014, *America’s New Drug Policy Landscape*, <http://www.people-press.org/2014/04/02/americas-new-drug-policy-landscape/>.

Pew Research Center, August 2014, *Stark Racial Divisions in Reactions to Ferguson Police Shooting*, <http://www.people-press.org/2014/08/18/stark-racial-divisions-in-reactions-to-ferguson-police-shooting/>.

Pew Research Center, March 2015, *Political Survey*, <http://www.people-press.org/files/2015/04/04-16-15-Death-penalty-topline-for-release.pdf>.

Pew Research Center, April 2015, *Divide between blacks and whites on police runs deep*, <http://www.pewresearch.org/fact-tank/2015/04/28/blacks-whites-police/>.

Pew Research Center, May 2015, *Multiple Causes Seen for Baltimore Unrest*, <http://www.people-press.org/2015/05/04/multiple-causes-seen-for-baltimore-unrest/>.

Pew Research Center, January 2016, *Budget Deficit Slips as Public Priority*, <http://www.people-press.org/2016/01/22/budget-deficit-slips-as-public-priority/>.

Pickett, J.T., et al., 2012, “Reconsidering the Relationship Between Perceived Neighborhood Racial Composition and Whites’ Perceptions of Victimization Risk: Do Racial Stereotypes Matter?” *Criminology*, 501, 145-175.

Pickett, J.T., 2015, “On the Social Foundations for Crimmigration: Latino Threat and Support for Expanded Police Powers,” *Springer Science + Business Media New York*.

Pickett, J.T., 2016, “Reintegrative Populism? Public Opinion and the Criminology of Downsizing,” *Criminology & Public Policy*, 151, 1-5.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

Public Policy Polling/Drug Policy Alliance, January 2016, *New Hampshire Survey Results*, http://www.drugpolicy.org/sites/default/files/NHResults_012616.pdf.

Public Policy Polling/Drug Policy Alliance, February 2016, *Maine Survey Results*, http://www.drugpolicy.org/sites/default/files/MaineResults_020916.pdf.

Public Policy Polling/Drug Policy Alliance. February 2016, *South Carolina Survey Results*, http://www.drugpolicy.org/sites/default/files/SC_poll_0216_PPP.pdf.

Public Religion Research Institute, November 2014, *American Values Post-election Survey*, <http://publicreligion.org/site/wp-content/uploads/2014/11/AVS-Post-election-TOPLINE-FINAL1.pdf>.

Public Religion Research Institute, September-October 2015, *American Values Survey*, <http://publicreligion.org/research/2015/11/survey-anxiety-nostalgia-and-mistrust-findings-from-the-2015-american-values-survey/#.VvxFO-IrLZ4>.

Quinnipiac University Poll, June 2015, *Quinnipiac University National Poll Finds Less Support for Death Penalty—Except for Terrorism*, <http://www.quinnipiac.edu/news-and-events/quinnipiac-university-poll/national/release-detail?ReleaseID=2229>.

Ramirez, M.D., 2013, "Punitive Sentiment," *Criminology*, 512, 329-364.

Ramirez, M.D., 2013, "The Polls-Trends: Americans' Changing Views on Crime and Punishment," *Public Opinion Quarterly*, Advance Access published December 10, 2013.

Reason-Rupe Poll, October 2014, <http://reason.com/poll/2014/10/09/october-2014-reason-rupe-poll-html>.

Red Oak Strategic/Justice Action Network, November 2015, *Overwhelming, Broad, and Extensive Support Across Party, Ideology, and Demographics for Criminal Justice Reform in New Louisiana Survey Findings*, <http://www.justiceactionnetwork.org/wp-content/uploads/2015/11/Justice-Action-Network-Louisiana-Survey.pdf>.

Robert Wood Johnson Foundation/Latino Decisions, March 2015, *Topline Results Latino National Health Survey*, http://www.latinodecisions.com/files/1214/2707/3700/UNM_RWJF_Center_Toplines_Posted.pdf.

Roper Center, September 2015, *Black, White, and Blue: Americans' Attitudes on Race and Police*, <http://ropercenter.cornell.edu/black-white-blue-americans-attitudes-race-police/>.

The Sentencing Project, September 2014, *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, http://sentencingproject.org/doc/publications/rd_Race_and_Punishment.pdf.

Silber, Rebecca et al, *Justice in Review: New Trends in State Sentencing and Corrections 2014-2015*, the Vera Institute, May 2016, <http://www.vera.org/sites/default/files/resources/downloads/state-sentencing-and-corrections-trends-2014-2015.pdf>.

Suffolk University/USA Today, February 2016, National Poll, http://www.suffolk.edu/documents/SUPRC/2_17_2016_marginals.pdf.

Sundt J., Cullen, F.T., Thielo, A.J., Jonson, C.L., 2015, "Public Willingness to Downsize Prisons: Implications from Oregon," *Victims & Offenders*, 10, 365-378.

The Tarrance Group/U.S. Justice Action Network, January 2016, *Key findings from statewide surveys in Florida, North Carolina, Nevada, Kentucky, Missouri, and Wisconsin*, <http://www.justiceactionnetwork.org/wp-content/uploads/2016/02/Analysis-memo-All-states.pdf>.

Thielo, A.J., et al., 2015, "Rehabilitation in a Red State: Public Support for Correctional Reform in Texas," *Criminology & Public Policy*, 151, 1-34.

W.K. Kellogg Foundation, September-October 2014, *National Survey of Latino Households*, http://www.latinodecisions.com/files/3814/1582/4627/Topline_Results_WKKF_State_of_the_Latino_Family_2014.pdf.

WPA Opinion Research/Texas Public Policy Foundation, March 2015, *Key Findings of Texas Criminal Justice Reform Survey*, http://rightoncrime.com/wp-content/uploads/2015/03/TPPF_CriminalJusticeReformBenchmark.pdf.

A NEW SENSIBILITY

AN ANALYSIS OF PUBLIC OPINION RESEARCH ON ATTITUDES
TOWARDS CRIME AND CRIMINAL JUSTICE POLICY

YouGov/ *Huffington Post*, July 2015, *Poll Results: Police*, <https://today.yougov.com/news/2015/07/29/poll-results-police/>.