



1. Introduction
2. Measuring public opinion
3. Summary of past research
4. NSW surveys: 2007 & 2012
5. Australian survey and deliberative polls: 2008-10
6. Tasmanian juror study: 2007-2009
7. Current juror studies
8. Conclusion

Public opinion on sentencing: recent research in Australia

by Lenny Roth

1. Introduction

The former NSW Chief Justice, James Spigelman AC QC, commented that “sentencing engages the interest, and sometimes the passion, of the public at large more than anything else judges do”.¹ Public opinion on sentencing is important for two main reasons. First, it has a major impact on the state of public confidence in the criminal justice system, and this can impact on the system’s ability to function effectively.² Secondly, public attitudes have become a key factor in shaping sentencing policy.³ This e-brief outlines the results of recent Australian research studies on public attitudes to sentencing.

2. Measuring public opinion

A 2006 paper by the Victorian Sentencing Advisory Council discussed three main methods that had been used by researchers to measure public opinion.⁴ These included:

(1) Representative surveys: This has been the most common method of measuring public opinion. Using representative samples of the public, researchers have asked a range of questions to ascertain public opinion on a wide variety of criminal justice issues, including sentencing policy. The paper notes a number of limitations of these surveys including:

Few surveys can determine whether the so-called opinions measured reflect enduring attitudes, firmly held beliefs, top-of-the-mind views, judgment based on experience and knowledge, or simply an answer created on the spot in order to fill out the questionnaire.⁵

(2) Focus groups: A focus group method involves gathering small groups of participants to discuss a particular issue. The paper states that the primary advantage of this method is that it is able to elicit far more detailed, thoughtful and insightful responses from participants than the traditional survey method. However, the nature of focus group research means that it is difficult to generalise results to the broader community.

(3) Deliberative polls: Deliberative polls draw upon representative surveys and focus groups. A random sample of the public is surveyed about their attitudes. Following this, a sub-sample of several hundred respondents is brought together for an extended session of small group discussion and deliberation on crime and justice issues with experts. Participants then complete the questionnaire a second time. The paper notes that this approach has the advantage of being able to elicit detailed information from respondents about their *informed* opinion.

3. Summary of past research

The 2006 paper by the Victorian Sentencing Advisory Council examined the current state of knowledge about public opinion on sentencing.⁶ The paper observed that most of the research in this field had been conducted in the United States, United Kingdom and Canada. The general findings from this research were summarised as follows:

- In the abstract, the public thinks that sentences are too lenient
- In the abstract, people tend to think about violent and repeat offenders when reporting that sentencing is too lenient
- People have very little accurate knowledge of crime and the criminal justice system
- The mass media is the primary source of information on crime and justice issues
- When people are given more information, their levels of punitiveness drop dramatically
- People with previous experiences of crime victimisation are no more punitive than the general community
- People with high levels of fear of crime are more likely to be punitive
- Despite apparent punitiveness, the public favours increasing the use of alternatives to imprisonment
- Despite apparent punitiveness, the public believes that the most effective way to control crime is via programs such as education and parental support, rather than via criminal justice interventions
- Despite apparent punitiveness, public sentencing preferences are actually very similar to those expressed by the judiciary or actually used by the courts
- Despite apparent punitiveness, the public favours rehabilitation over punishment as the primary purpose of sentencing for young offenders, first-time offenders and property offenders
- Despite apparent punitiveness, public support for imprisonment declines when the offender makes restorative gestures.⁷

The paper noted that there had only been a handful of studies in Australia over the previous 20 years.⁸ It referred to: a 1987 Perth study on public perceptions on sentencing; an Australian survey on the same subject in the same year; and questions on sentencing asked in several editions of the *International Crime Victimisation Survey* and of the *Australian Survey of Social Attitudes* (AuSSA). While these studies were more limited, the paper suggested their findings were broadly consistent with overseas research.

In a 2008 update to the paper, the Sentencing Advisory Council referred to the findings of a Victorian study, published in 2007, which supported the notion that when given more information, people become less punitive.⁹ In this study, four actual cases were presented to participants by the four sentencing judges after a preliminary discussion of the principles and purposes of sentencing. The 471 participants were employees at 32 workplaces around Victoria. The paper summarised the findings as follows:

For the intentionally causing serious injury case the judge's sentence (3.0 years of non-parole period) fell just below the median sentence imposed by the study participants (3.2 years, plus a treatment program). But for the other three cases, the judge's sentence was well above the participants' median sentence (for theft, 3.5 years for the judge and 2.0 years for the participants; for armed robbery, 4.5 years for the judge and 1.9 years for the participants, plus a treatment program; for rape, 6.0 years for the judge and 4.9 years for the participants, plus a treatment program.¹⁰

4. NSW surveys: 2007 & 2012

2007 survey: In 2008, the NSW Bureau of Crime and Justice Statistics (BOCSAR) published the results of a survey of public confidence in the criminal justice system.¹¹ The survey involved telephone interviews with 2,002 NSW residents who were chosen at random. The survey was conducted in August 2007. The only specific question on sentencing was: "In general, would you say that sentences handed down by the courts are too tough, about right, or too lenient?" As shown in the table below, 66 per cent of respondents thought sentences were too lenient:¹²

| Much too tough | A little too tough | About right | A little too lenient | Much too lenient | Don't know/ no comment |
|----------------|--------------------|-------------|----------------------|------------------|------------------------|
| 1.2 | 2.6 | 25.7 | 29.0 | 37.0 | 4.5 |

The study also considered the relationship between certain characteristics and responses to the survey questions. In summary, the following relationships were found in relation to responses on sentencing:

- *Socio-demographics:* Older people were less likely to believe that sentences were adequate (i.e. 'about right'). On the other hand people with higher incomes, people who were more educated, and people who were living in metropolitan areas, were more likely to believe that sentences were adequate.¹³
- *Knowledge of criminal justice:* People with more knowledge about recent property crime trends were more likely to believe that sentences were adequate. People who were more knowledgeable about burglary imprisonment rates were also more likely believe that sentences were adequate. The opposite was true for those with more knowledge about assault imprisonment rates.¹⁴
- *Information sources:* People who said that broadsheet newspapers or educational institutions were their most influential source of information about the criminal justice system were more likely to believe that sentences were adequate. The opposite was true for people who said that tabloid newspapers, TV/Radio news, or talkback radio were their most influential sources.¹⁵

2012 survey: In 2012, BOCSAR published the results of a follow up survey, which was conducted during March-April 2012.¹⁶ The results on the sentencing question are shown below.¹⁷ The proportion of respondents who thought sentences were too lenient dropped from 66 per cent to 59 per cent. In addition, there was a decrease in the percentage who believed that sentences were ‘much too lenient’ (from 37 to 29 per cent).

| Much too tough | A little too tough | About right | A little too lenient | Much too lenient | Don't know/ no comment |
|----------------|--------------------|-------------|----------------------|------------------|------------------------|
| 1.2 | 3.0 | 31.4 | 29.7 | 29.3 | 5.1 |

While the 2012 publication did not examine the relationship between certain characteristics and responses to the survey questions, it was noted that in 2012 people were generally more knowledgeable about property crime trends and burglary imprisonment rates.¹⁸

5. Australian survey and deliberative polls: 2008-10

This section summarises the findings from different phases of an Australia-wide sentencing and public confidence project.

2008-09 survey results: A 2012 article presented the results of a national survey to examine the public’s confidence in courts and sentencing, and its views on sentencing and punishment.¹⁹ The survey involved telephone interviews with 6,005 people from all States and Territories (800 from each jurisdiction except for the ACT - 400), who were chosen at random. The interviews took place from December 2008 to April 2009.

The survey asked several questions on sentencing. Set out below are the responses to the same question on sentencing that was asked in the NSW survey: i.e. “In general, would you say that sentences handed down by the courts are too tough, about right, or too lenient?”²⁰ As can be seen, 59 per cent of respondents thought sentences were too lenient.

| Much too tough | A little too tough | About right | A little too lenient | Much too lenient | Don't know/ no comment |
|----------------|--------------------|-------------|----------------------|------------------|------------------------|
| 0 | 3 | 34 | 39 | 20 | 4 |

The survey also asked the same question in relation to specific offences.²¹ A higher proportion of respondents (79%) believed that sentences were too lenient for violent crimes than for non-violent property offences (61%) and non-violent drug offences (51%). 64 per cent of participants believed that sentences were too lenient in respect of juvenile property offences.

A number of other similar questions on the adequacy of sentences elicited similar or greater levels of dissatisfaction. For example, 66 per cent of respondents agreed with the statement that people who break the law should be given stiffer sentences (including 17 per cent who strongly agreed).²² On the other hand, 57 per cent of respondents said they were confident that judges impose an appropriate sentence most of the time.²³

The survey also asked questions about alternatives to imprisonment (i.e. community corrections and rehabilitation programs). The results on these questions were summarised as follows:

...the majority of Australians were willing to accept alternatives [to imprisonment] for mentally ill (82% of respondents), young (80% of respondents) and drug addicted (66% of respondents) offenders. With respect to non-violent offenders, 55 per cent of respondents agreed that prison sentences should be used less frequently, whereas 64 per cent agreed that community correction orders should be used instead of prison.²⁴

The article commented generally on the results:

It appears then that public opinion in this area is more diverse and complex than simple opinion polls would suggest...The public appeared to be relatively punitive when their views were measured using generalised statements...In contrast, the public appeared to be willing to support less punitive sentences when they were asked to consider alternatives to imprisonment. Inconsistencies in public opinion regarding criminal justice issues have been well documented and it has been argued that the methodology employed to gauge public opinion as well as the type and depth of information provided has a strong bearing on the results obtained

The nuanced opinions expressed by so many Australians in the present study highlights the problematic nature of gauging public opinion using top-of-the-head style opinion polls. Notable scholars in the field have discussed at length what is meant by 'public opinion' and whether it is wise to rely on public opinion per se as opposed to informed public judgment. It has been suggested that alternative methodologies are needed that tap into informed judgments as opposed to top-of-the-head opinions. The latter phases of this national sentencing and public confidence project have explored the efficacy of alternative strategies for achieving precisely this distinction...²⁵

A separate article reported on an analysis of the differences across the States and Territories in responses to the 2008-09 survey on sentencing.²⁶ The study used a Confidence in Sentencing scale, which comprised seven survey items designed to measure an individual's confidence in sentencing; and a Punitiveness scale, which comprised seven items designed to measure an individual's desire for harsher punishment. It concluded that:

...although statistically significant differences existed between some States and Territories in both Confidence in Sentencing and Punitiveness, the magnitude of these differences was very small.²⁷

Another article discussed a study of the 2008-09 survey data to test the utility of three sets of variables as predictors of punitive attitudes, namely: (1) demographics – five variables (e.g. age); (2) media use – four variables (e.g. critical evaluation of media); and (3) crime salience – three variables (e.g. fear of crime).²⁸ The literature had suggested that these three factors were commonly linked with punitiveness. The study concluded that:

Whilst punitive attitudes were predicted by a range of [the] variables [that were studied], perceptions of crime levels, education and reliance on commercial/tabloid media for news and information were the largest single predictors. On the basis that knowledge and perceptions play an important role in accounting for punitive attitude...the value of accurate and credible information about crime and justice should not be underestimated.²⁹

2009 follow up survey: A follow up survey of 800 persons who completed the original survey was conducted nine months later (i.e. between September and November 2009).³⁰ One section of the follow up survey asked questions on the purposes of sentencing. Participants were asked to

read eight brief crime scenarios that differed according to offender age, offence type and offence history and, for each of these, to choose the most important purpose of sentencing from five options. The options corresponded to the purposes outlined in sentencing legislation, namely: incapacitation, deterrence, rehabilitation, denunciation and retribution. The findings of this section of the survey were summarised as follows:

The results clearly demonstrate that the Australian public takes into consideration offence type, offender age and offence history when determining the most appropriate purpose of sentencing. People believe that when it comes to sentencing first-time and young offenders as well as less serious offences, the most important purpose is rehabilitation. In contrast, punishment was endorsed as being the most important purpose in the case of repeat offenders, adult offenders and serious offences. Incapacitation was also endorsed, admittedly more infrequently, by a minority of respondents as being most important in cases involving repeat offenders, adult offenders and serious offences. There appeared to be little support for deterrence whether on an individual basis or a general one.³¹

The article commented that:

Consistent with common law and legislation in many jurisdictions in Australia, it is clear that many Australians make important distinctions about what can be, and should be, achieved by sentencing on the basis of salient offence and offender variables. This concordance between public expectations and sentencing policy and practice challenges claims that the legislation and the judiciary are out of touch with the expectations of the community at least as far as the broad and traditional purposes of sentencing are concerned.³²

2008-10 deliberative poll: Another component of the same follow up survey of 800 persons (conducted between September and November 2009) provided information on two key policy areas related to sentencing: the use of imprisonment versus alternatives, and mandatory imprisonment.³³ The participants were provided with three key facts relating to the issues as well as the key arguments for and against the issues. The aim of this was to engender a greater level of reflection about matters in this area generally. The participants were then asked to answer the same questions as in the original survey. Around 6-9 months later (between April and May 2010), the participants were surveyed again. At this later time, a separate control group of around 800 persons was also surveyed.

The study found that in the first follow up survey (Sept-Nov 2009), participants scored higher in confidence in sentencing, lower in punitiveness, and higher in acceptance of alternatives to imprisonment than in the original survey (Dec 2008 – April 2009).³⁴ However, these effects were not sustained when measured at the second follow up survey (April-May 2010). In addition, no substantial differences could be observed between the group exposed to the intervention and the control group at the time of the second follow up survey. The article commented:

It remains possible that more information and more deliberation in the study reported here would have produced a more durable effect. Another possibility is that the results observed immediately after the intervention reflected the task demands of the intervention. This might explain why global

opinions...reverted to their previous position as these task demands were not present at the time of re-testing.

The focus on task demands or perhaps roles is perhaps warranted as it is reasonable to expect that when placed in the context of decision-making and providing considered judgments members of the public will respond differently than when being asked for general opinions. One may espouse punitive opinions in a survey but also respond in a sober fashion to tasks requiring the exercise of judgment...³⁵

2008-10 further deliberative poll: A further phase in the research project involved a small number of participants (39) who agreed to participate in small group deliberative discussions.³⁶ They were asked to view a DVD which presented a balanced view of the same two sentencing issues: the alternatives to imprisonment, and mandatory sentences of imprisonment. A professional facilitator then facilitated discussion about these issues. The participants were then asked to answer the same questions as in the original 2008-09 survey. Six months after participating in the small group sessions, the participants completed a final survey.

The study found that, after the small group deliberations, participants seemed to have slightly less *confidence in sentencing* but by the time of the final survey their confidence had increased slightly from the level of the original 2008-09 survey.³⁷ It also reported that, after the small group deliberations, there was an immediate decrease in participant's *levels of punitiveness* and a greater acceptance of alternatives to imprisonment, but these effects levelled off to some extent by the time of the final survey.³⁸ On the basis of these findings, the study concluded;

...the findings of this research provide a good indication that people can be moved by the provision of relevant information, the opportunity to discuss arguments, and the chance to deliberate about a preferred position on issues of immediate relevance to criminal justice policymakers.³⁹

6. Tasmanian juror study: 2007-2009

The Tasmanian Jury Sentencing Study surveyed 698 jurors from 138 trials in Tasmania between September 2007 and October 2009. The study involved two stages of surveys (described below) and one further stage of interviews with 50 selected participants:

In the first stage of the study, each jury returning a guilty verdict was invited by the judge to participate in the study by remaining in court to listen to the sentencing submissions. Before the sentence was imposed, jurors completed Questionnaire 1 which asked them:

- to indicate the sentence that they thought the offender should receive;
- to answer questions about crime and sentencing trends; and
- to give their views on sentencing severity and whether judges were in touch with public opinion.

Those willing to participate further were sent a package containing the judge's sentencing comments, an information booklet about crime and sentencing, and a second survey form. Questionnaire 2 repeated the questions in the first survey about judges, sentencing practices and crime trends and it asked extra questions about the sentence that the judge had

imposed, the contents of the sentencing remarks and the usefulness of the information package.⁴⁰

The final report is dated April 2010.⁴¹ The main finding of the study was:

...informed members of the public overwhelmingly approve of the sentences given by our judges. Based on the findings from 138 trials, jurors who have judged the defendant guilty are more likely to select a more lenient sentence than a harsher sentence than the judge. Moreover, when they are informed of the sentence, they are highly likely to endorse it. The fact that this is the judgement of jurors makes it a strong endorsement of judicial sentencing. It is an important finding which should be heeded by politicians and policy makers. It suggests strongly that jury surveys can help counter the “comedy of errors” – the situation in which policy and practice is not based upon a proper understanding of public opinion and public opinion is not based on a proper understanding of policy and practice.⁴²

A more detailed summary of the findings is set out below.⁴³

Juror views on sentence in trial: At stage 1 of the surveys, 52 per cent of jurors selected a more lenient sentence than the judge imposed, 4 per cent selected the same sentence, and 44 per cent a more severe sentence. Responses were also quite evenly split for the different types of offences, with the exception of property and culpable driving offences, where a much higher proportion of jurors selected a more lenient sentence than the judge imposed. The report commented that:

The finding that jurors were slightly more likely to be more lenient than the judge rather than more severe in their sentence choice at Stage 1...contrasts strikingly with the findings in representative surveys which indicate that about 70 percent of the public think that sentences are too lenient...Instead, it accords more with the findings of studies which have compared judicial sentences with those selected by members of the public by using [case] vignettes.⁴⁴

At stage 2, 90 per cent of jurors said that the sentence imposed was appropriate, evenly split between ‘very appropriate’ and ‘fairly appropriate’. However, there was some variation across different offences (e.g. only 80 per cent said it was appropriate in drug trials). Jurors who did not think that the sentence was ‘very appropriate’ were asked to indicate what the sentence should have been. 38 per cent of jurors thought that the judge should have imposed a more severe sentence (46 per cent for sex and drug offences). The report stated that these stage 2 survey results also “provide strong support for the finding that informed public opinion is not as punitive as general questions in representative surveys”.⁴⁵

At Stage 2, more than half (57 per cent) of jurors who had selected a more severe sentence at Stage 1 still wanted a more severe sentence at Stage 2 whereas only 18 per cent of those who had selected a more lenient sentence at Stage 1 still wanted a more lenient sentence at Stage 2. The report remarked on this difference:

This finding has relevance in terms of assessing the impact of information on attitude change and helps to explain why it is that general attitudes seem to favour tougher sentences. Those who may tend to leniency are nevertheless

content with sentences that are tougher, but those who tend to want a more severe sentence in an individual case are less tolerant of lighter sentences.⁴⁶

Juror views on sentences generally: At Stage 1, the majority of jurors considered that sentences were too lenient, across all offence types. This was most pronounced for sex and violence offences, with 80 per cent and 76 per cent of jurors saying that sentences were too lenient. It was noted that a large proportion of jurors were not well informed about crime trends and imprisonment rates (as shown in their responses to four questions); and an analysis showed that jurors with more punitive views were more likely to have less knowledge of these matters. The report stated:

Our study confirms the findings of previous studies that crime misperceptions influence perceptions of leniency in sentencing...Our results showed that perceptions of lenient sentencing at Stage 1 were associated with the beliefs that crime had increased, with overestimates of the proportion of crime that is violent, with under-estimating the imprisonment rate for rape, and overestimating the risk of victimisation...⁴⁷

At Stage 2, the 'too lenient' responses decreased across all offence types and the 'about right' responses increased. However, the most common response for most offence types remained 'too lenient'. In the case of sex and violence offences, 70 per cent and 66 per cent of jurors still thought sentences were too lenient. On the other hand, most jurors (50 per cent) considered that sentences for property offences were 'about right'. It was noted that jurors' knowledge about crime and imprisonment rates had improved at Stage 2 but more than a third still had misperceptions.

At Stage 2, a much higher proportion of jurors thought that sentences generally were too lenient for sex, violent and property offences than the proportion who thought that the sentence imposed in the individual cases was too lenient: e.g. 66 per cent of all jurors thought that sentences for violent offences were too lenient, while only 35 per cent of jurors in cases involving violent offences wanted a more severe sentence than the judge. When juror's views were examined by reference to the offence type of the case that they participated in, for both violence and sex offences, there still existed a substantial gap between juror views about sentence leniency generally and their views about the sentence in the case: e.g. 62 per cent of violent offence jurors thought sentences for violent offences were generally too lenient, while in the individual cases, only 35 per cent of these jurors wanted a more severe sentence than the judge.

The study commented on these findings as follows:

Our study shows that, overall, improving information about crime and sentencing reduces punitiveness in sentencing attitudes but not in a uniform way. The provision of information is not always enough to change attitudes. This is because attitude formation is a complex process and is not simply a function of lack of knowledge. For some respondents the belief that sentences are too lenient is firmly entrenched and is not shaken by the knowledge that sentencing practice is tougher than they thought, or that in a real case in which they determined guilt they would have selected a more lenient sentence than the judge did. This study suggests that there is more to be learnt from exploring the reasons why some participants could not "jump the perception gap". One reason we propose from our results in this

study is that such a failure is not a lack of knowledge of crime or sentencing trends but the misperception that the stereotypical offender is the typical...⁴⁸

Juror views on whether judges in touch: At Stage 1, 70 per cent of jurors said that judges were in touch with public opinion, including 13 per cent who said that judges were 'very in touch'. At Stage 2, 83 per cent of jurors thought that judges were in touch with public opinion, including a significantly higher proportion (26 per cent) who thought they were 'very in touch'. The report noted that these findings were in marked contrast to popular perceptions and findings from representative surveys.⁴⁹

7. Current juror studies

Two further juror studies in Australia are in progress.⁵⁰ A juror study is being conducted in Victoria for all trials which returned a guilty verdict in the Supreme Court and the County Court in Melbourne, Geelong and Bendigo between mid-May 2013 and mid-May 2014. In addition, a national juror study is commencing in 2014, which aims to explore the views of jurors about the sentencing in trials involving sex offences and violence offences. All trials over a 12-month period in all States and Territories which return a guilty verdict for a sex offence or serious violence offence will be included in the study. The final results of this study will be published in 2016.

8. Conclusion

These studies provide us with a greater insight into public opinion on sentencing in Australia. The findings are broadly consistent with international research. Some of the key findings of these studies are that: when asked in surveys, a majority of people (59-80%) say that sentences are too lenient; however, responses to other survey questions reveal that people's attitudes to sentencing are more diverse than this; in addition, people who think that sentences are too lenient are more likely to be less knowledgeable about crime and imprisonment rates; and further, when asked to deliberate on cases, a majority of people (56%) select a sentence that is the same or more lenient than the judge's sentence.

While further research is needed, it is important for policy makers to be aware of the nuances of public opinion on sentencing and of the difference between informed and uninformed opinion on this issue. The research also suggests a need to better educate the public (and media) on sentencing and the criminal justice system. Both the NSW Law Reform Commission and NSW Sentencing Council have made suggestions in this area.⁵¹ Some initiatives have been pursued: e.g. the Sentencing Council's Sentencing Information Package. More recent plans include the Chief Justice holding public forums on sentencing, and the Government's proposal to amend laws to encourage television broadcasts of sentences.⁵²

¹ Hon J Spigelman AC, [A New Way to Sentence for Serious Crime](#), Address for the annual opening of Law Term Dinner of the Law Society of NSW, Sydney, 31 January 2005

² K Warner et al, [Jury Sentencing Survey](#), Report to the Criminology Research Council, April 2010, p8

³ K Warner et al, note 2, p8

⁴ K Gelb, [Myths and Misconceptions: Public Opinion versus Public Judgment about Sentencing](#), Sentencing Advisory Council, July 2006, p7-10

⁵ K Gelb, note 4, p8

- ⁶ K Gelb, note 4, p11ff
- ⁷ This summary is taken from K Gelb, [More Myths and Misconceptions](#), Sentencing Advisory Council, September 2008, p2
- ⁸ K Gelb, note 4, p29
- ⁹ K Gelb, note 7, p8
- ¹⁰ K Gelb, note 7, p8
- ¹¹ C Jones et al, [Public confidence in the NSW criminal justice system](#), *Contemporary Issues in Crime and Justice Number 118*, NSW Bureau of Crime Statistics and Research, August 2008
- ¹² C Jones et al, note 11, p6 (Fig 1)
- ¹³ C Jones et al, note 11, p7-8
- ¹⁴ C Jones et al, note 11, p9-10. For example, one of the questions asked in the survey was: 'Would you say there is more property crime, less property crime or about the same amount (since five years ago)?'
- ¹⁵ C Jones et al, note 11, p11
- ¹⁶ L Snowball and C Jones, [Public confidence in the NSW criminal justice system: 2012 update](#), *Contemporary Issues in Crime and Justice Number 165*, NSW Bureau of Crime Statistics and Research, November 2012
- ¹⁷ L Snowball and C Jones, note 16, p9 (Fig 10)
- ¹⁸ L Snowball and C Jones, note 16, p8-9
- ¹⁹ G Mackenzie et al, 'Sentencing and public confidence: Results from a national Australian survey on public opinions towards sentencing' (2012) 45(1) *Australian and New Zealand Journal of Criminology* 45
- ²⁰ G Mackenzie et al, note 19, p53 (Table 6)
- ²¹ G Mackenzie et al, note 19, p53 (Table 6)
- ²² G Mackenzie et al, note 19, p51 (Table 3) and p52 (Table 5)
- ²³ G Mackenzie et al, note 19, p51 (Table 2)
- ²⁴ G Mackenzie et al, note 19, p53 (Table 2)
- ²⁵ G Mackenzie et al, note 19, p57
- ²⁶ L Roberts et al, 'A country not divided: A comparison of public punitiveness and confidence in sentencing across Australia' (2011) 44(3) *Australian and New Zealand Journal of Criminology* 370
- ²⁷ L Roberts et al, note 26, p379
- ²⁸ C Spiranovic et al, 'What predicts punitiveness? An examination of predictors of punitive attitudes towards offenders in Australia' (2012) 19(2) *Psychiatry, Psychology and Law* 249
- ²⁹ C Spiranovic et al, note 28, p259
- ³⁰ G Mackenzie et al, 'Public preferences for sentencing purposes: What difference does offender age, criminal history and offence type make?' (2012) 12(3) *Criminology and Criminal Justice* 289
- ³¹ G Mackenzie et al, note 30, p301
- ³² G Mackenzie et al, note 30, p303
- ³³ D Indermaur et al, 'A matter of judgment: The effect of information and deliberation on public attitudes to punishment' (2012) 14(2) *Punishment and Society* 147
- ³⁴ D Indermaur et al, note 33, p159
- ³⁵ D Indermaur et al, note 33, p160
- ³⁶ G Mackenzie et al, 'Measuring the Effects of Small Group Deliberation on Public Attitudes towards Sentencing: Benefits and Challenges' (2014) 25(3) *Current Issues in Criminal Justice* 745
- ³⁷ G Mackenzie et al, note 36, p753-754
- ³⁸ G Mackenzie et al, note 36, p754-756
- ³⁹ G Mackenzie et al, note 36, p754-757
- ⁴⁰ K Warner et al, [Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study](#), *Trends & issues in crime and criminal justice* no.407, Australian Institute of Criminology, February 2011, p2
- ⁴¹ K Warner et al, [Jury Sentencing Survey](#), Report to the Criminology Research Council, April 2010. For a summary report, see K Warner, note 40.
- ⁴² K Warner et al, note 41, p95-96
- ⁴³ Except where indicated, this section is based on K Warner et al, note 40
- ⁴⁴ K Warner et al, note 41, p76
- ⁴⁵ K Warner et al, note 41, p77
- ⁴⁶ K Warner et al, note 41, p77
- ⁴⁷ K Warner et al, note 41, p87
- ⁴⁸ K Warner et al, note 41, p91

-
- ⁴⁹ K Warner et al, note 41, p83. For further discussion of these findings, see K Warner et al 'Are Judges out of touch?' (2014) 25(3) *Current Issues in Criminal Justice* 729
- ⁵⁰ K Warner, 'The Australian national jury sex offence sentencing study' (2014) 11(4) *The Judicial Review* 459 at p468-469
- ⁵¹ NSW Law Reform Commission, [Role of Juries in Sentencing](#), Report 118, August 2007, Ch5; A Butler and K McFarlane, [Public confidence in the NSW criminal justice system](#), Monograph 2, NSW Sentencing Council, May 2009, Ch6-7.
- ⁵² L Hall, [Judges fight 'out of touch' tag with courtroom broadcasts, jurors' surveys](#), *SMH*, 26 March 2014

Information about Research Publications can be found on the Internet at the:
[NSW Parliament's Website](#)

Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion.

© 2014

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this document may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior consent from the Manager, NSW Parliamentary Research Service, other than by Members of the New South Wales Parliament in the course of their official duties.

ISSN 1838-0204