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Public Attitudes Toward Punishment, Rehabilitation, and Reform: Lessons from the Marquette Law School Poll



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Public support for tough sentencing policies rose sharply in the United States in the 1970s and remained high until the late 1990s.¹ Since then, public opinion surveys have pointed to the emergence of more nuanced and even less punitive attitudes. Not surprisingly, policymakers in dozens of states have responded by adopting a plethora of reforms purporting to take aim at over-incarceration.² Yet, few of these reforms have had any appreciable impact in practice, and upon closer inspection, most seem by design quite limited in their reach. Two decades after opinion surveys began to indicate a softening of public attitudes, America's prison population remains only slightly below its all-time high.

To develop a better understanding of why changes in public opinion have not produced more meaningful changes in policy, we have conducted our own survey research on an annual basis since 2012, attempting to identify more clearly the nature and limits of public support for less punitive, more rehabilitative responses to crime. All of this research, conducted under the auspices of the Marquette Law School Poll, has taken place in Wisconsin, a middling state by many measures, including imprisonment rate, and a closely divided state that sits politically somewhere close to the national center of gravity.³

This article reports particularly on our findings regarding public attitudes toward the criminal justice system's priorities and performance; differences in attitudes based on race, sex, and party affiliation; and predictors of support for rehabilitation.

I. Methodology and Participant Demographics

Founded in 2012, the Marquette University Law School Poll conducts multiple surveys of Wisconsin voters each year on state and national politics and public policy.⁴ Questions regarding sentencing and the criminal justice system have been included in the Poll four times to date, once each in 2012, 2013, 2014, and 2015. In an earlier publication, we detailed our findings from 2012 and 2013.⁵ This article focuses on results from the 2014 survey.⁶

We conducted the survey from July 17 to July 20, 2014.⁷ Interviewed by telephone, our respondents numbered 804 registered Wisconsin voters, giving us a margin of error of +/-3.5 percentage points.⁸ Responses were weighted to

compensate for the under-representation of some demographic groups in our sample.⁹ Table 1 sets forth basic demographic and other information regarding the sample, as well as the average (mean) response to our criminal justice questions.

II. The Criminal Justice System: Priorities and Evaluation

Among other topics, we asked our respondents a series of questions about their priorities for the criminal justice system and their assessment of how well the system is

Table 1. Descriptive Statistics (weighted)

Variable	N	Range	Mean (SD)
Controls			
Gender (Male = 1)	804	0-1	.47 (.50)
Age (mean years)	804	18-94	50.86 (19.17)
Education (any college or greater = 1)	800	0-1	.32 (.47)
Race (White = 1)	787	0-1	.88 (.28)
Ethnicity (Hispanic = 1)	796	0-1	.06 (.24)
Church attendance	801	0-5	2.55 (1.59)
Milwaukee County	781	0-1	.16 (.37)
Catholic	795	0-1	.31 (.46)
Married	798	0-1	.54 (.50)
Income	697	1-9	5.26 (2.24)
Family member charged with crime	801	0-1	.19 (.39)
Family member crime victim	798	0-1	.22 (.41)
Follow politics	803	0-3	2.31 (.92)
Views Toward Criminal Justice			
How important is punish criminals	789	0-3	2.31 (.68)
How important is inform crime victims	793	0-3	2.23 (.81)
How important is rehabilitate offenders	797	0-3	2.05 (.85)
How important is make WI safer	800	0-3	2.38 (.66)
How important is reduce money on prisons	779	0-3	1.55 (.92)
How good at punishing criminals	766	0-3	2.31 (.68)
How good at informing crime victims	686	0-3	2.23 (.81)
How good at rehabilitating offenders	751	0-3	2.05 (.85)
How good at identify criminals	766	0-3	2.38 (.66)
How good at treating people equally	756	0-3	1.55 (.92)
Release prisoners early	775	0-3	1.77 (.79)
Racial Attitudes			
AAs should work harder	757	0-4	1.93 (1.23)
AAs don't need favors	769	0-4	2.35 (1.16)
AAs gotten less	753	0-4	2.12 (.85)
Slavery/discrimination affect AAs	777	0-4	2.01 (1.28)
Racial attitudes index	702	0-16	8.32 (3.61)
Politics			
Political conservative	767	0-4	2.17 (1.02)
Political identification (Republican = 1)	779	0-1	.25 (.43)

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currently doing. Their answers suggest that respondents expect a lot from the criminal justice system, but generally aren't impressed with the results.

In one part of the survey, respondents were asked to characterize the importance of five competing priorities for the criminal justice system. For *each* of the five, a majority indicated that the priority was either "very important" or "absolutely essential." The five priorities were:

- Making Wisconsin a safer place to live—91.6% said either very important or absolutely essential
- Ensuring that people who commit crimes receive the punishment they deserve—88.1%
- Keeping crime victims informed about their cases and helping them to understand how the system works—81.0%
- Rehabilitating offenders and helping them to become contributing members of society—74.1%
- Reducing the amount of money we spend on imprisoning criminals—51.2%.

There is, of course, more than a little tension in these responses. It would be quite challenging, for instance, for the system simultaneously to improve public safety, deliver deserved punishment, rehabilitate offenders, and reduce spending on corrections.

In another part of the survey, respondents were asked how well the system was performing in various areas. Here are the percentages who said the system was doing a "good" or "excellent" job at each of the five functions we asked about:

- Rehabilitating offenders and helping them to become contributing members of society—21.5%
- Keeping crime victims informed about their cases and helping them to understand how the system works—34.0%
- Ensuring that people who commit crimes receive the punishment they deserve—34.0%
- Identifying the most dangerous criminals and preventing them from committing new crimes—35.2%
- Treating all people fairly, regardless of race—37.0%.

Put differently, for each of the five functions, a majority of respondents said the system was only doing a "fair" or "poor" job.

The offender rehabilitation numbers were especially striking: almost nine times as many respondents said the system was doing a poor job (31.0%) as said the system was doing an excellent job (3.6%).

The system got its best marks for "treating all people fairly, regardless of race," but even for that, 27 percent of respondents said that the system was doing a poor job, while an additional 30 percent gave the system only a "fair." We note that our survey was conducted shortly before the shooting of Michael Brown in Ferguson, Missouri, which initiated a sustained period of heightened national attention

to racial discrimination in the criminal justice system. It is possible that our respondents would have been even more skeptical of the system's evenhandedness if the survey had been conducted post-Ferguson.

Our findings on rehabilitation—that is, the public thinks it to be an important function of the system, but one that the system performs particularly poorly—are echoed in national surveys. For instance, a study sponsored by the National Center for State Courts found that:

- 79% agreed that "given the right conditions, many offenders can turn their lives around and become law-abiding citizens."
- 22% said that rehabilitation should be the top priority for dealing with crime, which was ahead of longer sentences (19%) and more police (20%); prevention had the highest support at 36%.
- Only 32% rated prisons as "very successful" or even "somewhat successful" at rehabilitating offenders.¹⁰

The one specific policy question included in our 2014 survey implicated attitudes toward rehabilitation and cost-cutting. We asked about this proposition: "If a prisoner serves two-thirds of his term, he should be released and given a less costly form of punishment if he can demonstrate that he is no longer a threat to society." Two out of every three respondents (66.4%) agreed. In 2012 and 2013, we asked a very similar question about early release at the *halfway* mark of the sentence; both years, about 55% of respondents supported the proposal. We wondered whether there would be even more support if early release were delayed a little longer until the two-thirds mark of the sentence. As we expected, slight-majority support became a clear supermajority.

III. An Electorate Divided: Contrasting Criminal Justice Worlds of Different Social Groups

Overall response patterns obscure many important differences in the priorities and perceptions of different social groups, some of whom seem to be living in remarkably different criminal justice worlds than others. In particular, we observe distinct views across the lines of race, sex, and partisan affiliation.

Consider race first. Black and white respondents actually had quite similar views when it came to *priorities* for the system, as indicated in Table 2a. Whites were somewhat more punitive; that is, they tended to give a higher priority to ensuring that offenders receive the punishment they deserve. Otherwise, there were no statistically significant differences in priorities across racial lines. The more punitive orientation of whites may help to explain why they tended to be less enthusiastic about our proposal for early release of prisoners when it is safe to do so. Although about equal percentages of blacks and whites agreed with the proposal, a much higher percentage of blacks said they "strongly agreed" (32% versus 14%).

Table 2a. Priorities of the Criminal Justice System, by Race

Priority	Not Very Important (0)	Somewhat Important (1)	Very Important (2)	Absolutely Essential (3)
Punishment*	Black: 0%	15%	55%	30%
	White: 1%	8%	48%	43%
Victims	Black: 6%	10%	44%	41%
	White: 3%	14%	40%	43%
Rehabilitation	Black: 3%	13%	48%	36%
	White: 4%	23%	40%	33%
Cost-Cutting	Black: 11%	29%	42%	18%
	White: 14%	34%	35%	16%
Public Safety	Black: 0%	6%	53%	41%
	White: 1%	8%	42%	49%

* p < .01 threshold of statistical significance.

Table 2b. Performance of the Criminal Justice System, by Race

Function	Poor (0)	Fair (1)	Good (2)	Excellent (3)
Punishment**	Black: 32%	40%	19%	9%
	White: 17%	46%	32%	5%
Victims**	Black: 39%	33%	24%	4%
	White: 14%	46%	35%	5%
Rehabilitation*	Black: 47%	33%	19%	1%
	White: 31%	47%	20%	3%
Incapacitation**	Black: 41%	33%	24%	3%
	White: 21%	39%	34%	6%
Fairness**	Black: 47%	39%	13%	1%
	White: 25%	32%	37%	7%

* p < .01 and ** p < .001 thresholds of statistical significance.

If blacks and whites seemed to share a similar vision for what the system should be doing, they voiced quite different views about how well the system was living up to expectations. As indicated in Table 2b, black respondents gave worse marks to the system in each of the five areas covered by the survey, and all of these differences were statistically significant. The gap yawned especially wide in the area of “treating all people fairly, regardless of race,” where nearly half of black respondents (47%), but only one-quarter of white respondents, gave the system a grade of “poor.” Such widespread negative perceptions raise questions about how much legitimacy the system has in communities of color.

We note that direct experience with the system was far more prevalent among black respondents than white. Forty percent of black respondents, but only 16% of white, reported that they or a family member had been charged with a crime. Similarly, 43% of black respondents, but only 19% of white, said that they or a family member had been a crime victim. This suggests that different views of the system may derive in part from different sources of information about the system; whereas many black respondents could draw on direct knowledge of the system, a larger proportion of white respondents may form their impressions based on media depictions and other second-hand information.

Gender differences tended to be less pronounced than racial differences, but many were still statistically

Table 3a. Priorities of the Criminal Justice System, by Gender

Priority	Not Very Important (0)	Somewhat Important (1)	Very Important (2)	Absolutely Essential (3)
Punishment**	Women: 1%	6%	50%	44%
	Men: 2%	13%	48%	40%
Victims**	Women: 3%	10%	40%	47%
	Men: 4%	18%	39%	39%
Rehabilitation	Women: 3%	20%	43%	34%
	Men: 5%	22%	38%	34%
Cost-Cutting	Women: 13%	32%	38%	18%
	Men: 15%	36%	34%	15%
Public Safety*	Women: 1%	6%	44%	51%
	Men: 1%	10%	47%	43%

* p < .05 and ** p < .01 thresholds of statistical significance.

Table 3b. Performance of the Criminal Justice System, by Gender

Function	Poor (0)	Fair (1)	Good (2)	Excellent (3)
Punishment*	Women: 16%	49%	30%	6%
	Men: 23%	42%	30%	6%
Victims*	Women: 16%	45%	31%	9%
	Men: 21%	41%	34%	4%
Rehabilitation**	Women: 32%	46%	16%	6%
	Men: 35%	42%	22%	1%
Incapacitation	Women: 22%	41%	32%	5%
	Men: 26%	38%	31%	5%
Fairness	Women: 30%	32%	32%	6%
	Men: 27%	32%	35%	6%

* p < .05 and ** p < .01 thresholds of statistical significance.

significant. In these data, women were somewhat more punitive than men, and gave a somewhat higher priority to improving public safety and helping victims. They also tended to give the system modestly higher marks than men. However, there was no statistically significant difference in their levels of support for early release.

Partisan differences proved far more robust, with respect to both priorities and performance. Self-identified Republicans were significantly more punitive than self-identified Democrats, and gave significantly less support to helping victims, rehabilitating offenders, and cutting costs. Fully 58 percent of Republicans said that it was “absolutely essential” to give offenders the punishment they deserve—the single highest level of support for any priority in any of our tables. In recent years, much has been made of the potential to gain Republican support for imprisonment-reducing reforms by appealing to fiscal conservatism. However, our data do not indicate that cost-cutting in this area stands out as a particular priority for Republicans. Indeed, a much higher percentage of Democrats ranked it “absolutely essential.” For all of their party’s professed aversion to taxing and spending, many Republicans seem to view the punishment of criminals as an overriding policy objective. The one area in which Democrats and Republicans came together was in a desire for improved public safety, which was the top priority of Democrats and a near-top priority for Republicans.

Table 4a. Priorities of the Criminal Justice System, by Party Affiliation

Priority	Not Very Important (0)	Somewhat Important (1)	Very Important (2)	Absolutely Essential (3)
Punishment**	Dem: 2%	13%	54%	32%
	Rep: 1%	5%	37%	58%
Victims*	Dem: 3%	10%	39%	48%
	Rep: 6%	18%	42%	34%
Rehabilitation*	Dem: 1%	16%	40%	43%
	Rep: 5%	24%	45%	27%
Cost-Cutting*	Dem: 3%	10%	39%	48%
	Rep: 6%	18%	42%	34%
Public Safety	Dem: 1%	7%	44%	49%
	Rep: 1%	6%	40%	53%

* p < .01 and ** p < .001 thresholds of statistical significance.

Table 4b. Performance of the Criminal Justice System, by Party Affiliation

Function	Poor (0)	Fair (1)	Good (2)	Excellent (3)
Punishment**	Dem: 13%	45%	33%	10%
	Rep: 22%	42%	31%	5%
Victims*	Dem: 18%	41%	35%	5%
	Rep: 14%	41%	37%	8%
Rehabilitation**	Dem: 40%	37%	20%	3%
	Rep: 26%	42%	22%	4%
Incapacitation	Dem: 19%	41%	34%	7%
	Rep: 22%	38%	34%	6%
Fairness***	Dem: 40%	32%	23%	6%
	Rep: 11%	35%	44%	11%

* p < .05, ** p < .01, and *** p < .0001 thresholds of statistical significance.

Consistent with the Republican emphasis on deserved punishment, GOP partisans proved significantly less favorable to early release than Democrats. Notably, however, even among Republican respondents, support for this reform still reached nearly 63 percent. Punitive attitudes are obviously quite strong among Republicans, but they do not seem absolutely inflexible.

We also observed significant partisan differences in evaluations of the system's performance. Most notably, Democrats were much more skeptical of the system's fairness than Republicans. Partisan differences in this area tracked the racial differences discussed above. Conversely, Democrats gave the system *better* marks for imposing deserved punishment. Again, Republican dissatisfaction with (perceived) existing punishment levels may be an important political obstacle to reforms intended to promote greater use of alternatives to imprisonment.

More generally, we are struck by the extent to which members of different social groups, especially those defined by race and party affiliation, tend to live in different mental worlds of criminal justice, with different sources of information about the system, different perceptions of how the system performs, and different views about what the system should prioritize. These gaps point to sizeable challenges in even having constructive conversations about sentencing policy, let alone achieving meaningful consensus reforms.

IV. Rehabilitation and Racial Attitudes

A long line of research has demonstrated that American attitudes toward criminal justice policy are deeply intertwined with American attitudes toward race. Our research reveals a new dimension of this relationship. Specifically, we estimated ordered logit regression models to observe the magnitude of relationships between support for rehabilitation as a priority for the criminal justice system (dependent variable) and specific demographic and attitudinal characteristics, including those relating to race relations in the United States (independent variables), while statistically controlling for the other factors in the model.

Table 5 shows the results of three models. In the first two, which excluded racial attitudes, only two variables proved to be statistically significant predictors of support for rehabilitation. College-educated respondents were more likely to support rehabilitation, while self-described political conservatives were less likely. In each case, these relationships held up even when accounting for fourteen other variables (model 2). Notably, family experience with the criminal justice system, whether as a defendant or a victim, did not predict support for, or opposition to, rehabilitation.

In model 3, we added our racial attitudes index and found it to be a significant predictor of attitudes toward rehabilitation. The index reflected responses to four questions that have been used extensively in prior research to assess attitudes toward race. More specifically, our respondents were asked whether they agreed with the following statements:

- It's really a matter of some people not trying hard enough; if African-Americans would only try harder they could be just as well off as whites.
- Irish, Italians, Jews, and many other minorities overcame prejudice and worked their way up. African-Americans should do the same without any special favors.
- Over the past few years, African-Americans have gotten less than they deserve.
- Generations of slavery and discrimination have created conditions that make it difficult for African-Americans to work their way out of the lower class.

Respondents indicating higher levels of concern regarding African-American well-being also tended to possess greater support for rehabilitation, net of the other variables in the model. Among the variables comprising our index, a belief that African-Americans are held back by the historical legacy of slavery and discrimination proved an especially powerful predictor of support for rehabilitation.

Interestingly, in model 3, college education dropped out as a statistically significant predictor. In other words, it appears that the effect of education is reduced to non-significance with the introduction of our racial attitude measures. Conservatism remained statistically significant, but lost some of its predictive power, suggesting that at least some of the importance of political ideology is related to racial attitudes. Surprisingly, Republican affiliation became statistically significant in model 3 as a *positive* predictor of

Table 5. Ordered Logit Models for Importance of Rehabilitating Offenders

Variable	Model 1	Model 2	Model 3
Controls			
Cutoff 1	-4.42 (.60)	-4.24 (.63)	-5.63 (.69)
Cutoff 2	-2.17 (.60)	-1.99 (.62)	-3.25 (.67)
Cutoff 3	-0.22 (.59)	-0.029 (.61)	-1.17 (.65)
Age	.00010 (.005)	.00048 (.0057)	-.00078 (.0058)
College educated	.46 (.20)*	.50 (.20)*	.27 (.22)
Married	-.045 (.23)	-.025 (.23)	.045 (.24)
Milwaukee County	.084 (.24)	.064 (.24)	-.16 (.26)
Follow politics	.13 (.11)	.14 (.11)	.11 (.13)
White	-.47 (.35)	-.42 (.35)	-.40 (.34)
Church attendance	.039 (.060)	.045 (.062)	.057 (.067)
Income	-.033 (.55)	-.029 (.056)	-.041 (.060)
Male	-.047 (.19)	-.076 (.20)	.034 (.20)
Hispanic	-.33 (.55)	-.39 (.53)	-.40 (.58)
Catholic	-.14 (.19)	-.19 (.19)	.043 (.20)
Conservative	-.48 (.12)***	-.48 (.12)***	-.37 (.13)**
Republican	.36 (.26)	.39 (.27)	.65 (.29)*
Experiences with CJS/Crime			
Family member charged		.38 (.28)	.37 (.27)
Family member victim		-.0044 (.21)	-.020 (.23)
Racial Attitudes			
Racial attitudes index			-.17 (.033)***
Pseudo R ²	.034	.037	.070
N	634	630	593

* p < .05; ** p < .01; *** p < .001.

support for rehabilitation. In Table 4a, we saw that Republicans tend to be more skeptical of rehabilitation than Democrats, but that relationship appears to be driven largely by racial attitudes and political ideology; statistically controlling for the latter variables, Republicans are actually *more* likely to support rehabilitation.

Our results complement a large body of research revealing a close association between race and crime in the minds of many Americans.¹¹ The relationship we found between racial attitudes and rehabilitation attitudes suggests that rehabilitative programs in the criminal justice system may be seen by some as a sort of affirmative action. This perspective may help to explain the apparent ambivalence of policymakers toward rehabilitation and the chronic underfunding of even proven, evidence-based programs. Assertions of cost-effectiveness may be swamped by powerful—if largely unstated—feelings of racial deservingness (or undeservingness) and perceptions of racial competition for scarce public resources.

V. Conclusion

Despite a general reduction in public punitiveness, reformers face a complicated and challenging political environment as they try to shift the criminal justice system to a more rehabilitative orientation. Even as many voters express support for rehabilitation, they express no less support for “giving criminals the punishment they deserve.” Reformers must also contend with a widespread mistrust of the effectiveness of criminal justice officials. Although poor evaluations of the system might suggest an openness to real structural change, mistrust can cut both ways: voters might be skeptical of giving more discretion or resources to officials who are not believed to be using their current levels of discretion and tax dollars prudently.

It is also clear that criminal justice remains a matter of real partisan and racial division. Reformers may need to

frame their arguments quite differently for different audiences. For instance, Republicans seem rather less inclined than Democrats to view cutting prison budgets as an important priority. More concerning may be the possibility that some of the resistance to rehabilitative approaches is connected to deep-rooted racial resentment. None of this is to suggest that reform initiatives are futile, but it does highlight some of the reasons why repeated demonstrations of the greater cost-effectiveness of alternatives to incarceration have not led policymakers to embrace such alternatives in a more decisive fashion.

Notes

- 1 Mark D. Ramirez, *Punitive Sentiment*, 51 *Criminology* 329, 337 (2013).
- 2 Michael O’Hear & Darren Wheelock, *Imprisonment Inertia and Public Attitudes Toward “Truth in Sentencing,”* 2015 B.Y.U. L. Rev. 257, 257 (2015).
- 3 *Id.* at 259–60.
- 4 More information about the Poll is available through its website (<https://law.marquette.edu/poll/>). We are very grateful to our colleague Charles Franklin, the Poll’s director, for collaborating with us in the sentencing-focused surveys of 2012–2015.
- 5 O’Hear & Wheelock, *supra* note 2.
- 6 Complete results and data from July 2014 and all of the Marquette University Law School Poll surveys can be found at <https://law.marquette.edu/poll/results-data/>.
- 7 LHK Partners Inc. managed the data collection.
- 8 Marquette University Law School Poll, *Methodology, Marquette Law School Poll* (July 2013), <https://law.marquette.edu/poll/wp-content/uploads/2013/07/MLSP17Methodology.pdf>. Both landline and cellphone numbers were included in the random-digit dialing technique.
- 9 For a more complete description of the technical details, see *id.*
- 10 Princeton Survey Research Associates International, *The NCSC Sentencing Attitudes Survey: A Report on the Findings* (2006).
- 11 See, e.g., Devah Pager, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration* 69–71 (2007).