

IMPLICATIONS AND REFLECTIONS



This analysis of new and existing research on public attitudes toward incarceration suggests concrete guidance on solutions that are most and least likely to garner public support, as well as how to productively engage the public on the topic. Let's start with the most obvious pillars of public support. Where is there a green light for change as far as the public is concerned?

GREEN LIGHT: Where does the public generally agree?

Based on our focus groups and reading of the survey data, we believe there is significant and fairly stable common ground among the American public in support of reforms to prevent unnecessary, unhelpful or unfair incarceration.

For the public, prevention is the best medicine, and we find solid support for measures that keep young people out of trouble in the first place by instilling strong values and a firm foundation for life at home, in school and in communities. We also find support for measures to increase economic opportunity, so that, as one of our focus group participants put it, fewer people feel trapped.

The public also shows significant support for alternatives to incarceration and treatment when it comes to nonviolent drug offenses and possibly some other nonviolent crimes. Violent crimes were a pivot point in the public's thinking—cross that line and people tended toward harsher punishment, as a matter of public safety and justice. But it was clearly drugs that were on people's minds, likely in part as a result of the opioid crisis roiling families and communities across the nation.

Finally, our research shows that the public is concerned about bias in the judicial system, with a strong consensus that some people, such as the poor and people of color, are significantly disadvantaged in getting a fair shake. While we did not have time to delve into this topic with great specificity, we believe it likely that measures to lessen bias and level the playing field could, if properly framed, garner significant public support.

In all of these instances, people seemed animated by a set of core values and orientations. *Fairness* was a persistent theme in participants' comments about bias in the criminal justice system. Fairness mixed with a kind of *pragmatism* also seemed apparent in people's observations that we should ensure kids are raised well and that there are more good jobs if we want to see less criminal behavior. Commonsense pragmatism also seemed at work in participants' widely shared sense that what's being done to combat drug abuse is not working and in their willingness to experiment with other approaches—as long as public *safety*—another fundamental value in these conversations—is not compromised. As noted, people did not support leniency for violent offenses but were more open-minded for nonviolent crimes.

YELLOW LIGHT: Where is the public unsure, divided or in progress on the learning curve?

Despite some survey evidence to the contrary, we found people’s thinking about ending mandatory minimum sentences to be ambivalent and generally uncertain, too much so to be a reliable foundation of public support at this point in time. Our participants raised all kinds of ifs and buts about the idea. Most reformers are concerned that mandatory minimums are unfair because they lead to overly long and harsh sentences. But many of our participants wondered if eliminating mandatory minimums might exacerbate the unfairness they perceive in the criminal justice system by giving

biased judges too much leeway, potentially letting people with money get away with shorter sentences.

Our take is that people need to understand mandatory minimums more fully and wrestle with the pros and cons more completely before they’re likely to settle into a stable position on this potential area of reform. That’s why we feel surveys indicating support for reform of mandatory minimum sentencing should, for the time being, be taken with a grain of salt.

RED LIGHT: What reforms are likely to be a particularly hard sell with the public?

Some countries hand out significantly shorter sentences for violent crimes than is the case in the United States, and some criminal justice experts believe it will be necessary to move things in this direction if our nation is to make a major dent in its incarceration level. Our research suggests this would be a very tough sell when it comes to the public. People view incarceration as a necessary means of keeping dangerous people off the street and as a matter of justice for serious, violent offenses.

Some might highlight the fact that public support for the death penalty has fallen to its lowest point in 45 years (although 55 percent of Americans still

support it)—perhaps suggesting that the public might, over time, become open to less harsh sentencing even for violent criminals.¹³ This is of course possible, but we suspect that the “get dangerous people off the streets” reasoning that comes across strongly when people talk about violent crimes would be a difficult hurdle for those who favor shorter sentences for such transgressions. It is, however, possible—and this is pure speculation on our part—that dramatic, demonstrable breakthroughs in rehabilitation would loosen this position and open the public’s mind to a less harsh approach to incarceration even for violent offenders.

¹³ Jeffrey M. Jones, “U.S. Death Penalty Support Lowest Since 1972,” Gallup Politics, October 26, 2017, <http://news.gallup.com/poll/221030/death-penalty-support-lowest-1972.aspx>.