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The NCSC Sentencing Attitudes Survey: A Report on the Findings*

PRINCETON SURVEY RESEARCH ASSOCIATES INTERNATIONAL
FOR NATIONAL CENTER FOR STATE COURTS¹

JULY 2006

EXECUTIVE SUMMARY

The climate of public opinion toward crime and punishment in this country has changed considerably over the past decade. As the national crime rate has declined, crime is less likely to be in the forefront of people's minds and—with the exception of certain high-profile crimes and cases involving celebrities—is less prominent in media coverage. What had been a frequent polling topic ten years ago gets much less attention today. Moreover, recent surveys about crime often fail to specifically address public attitudes toward sentencing, or have examined the issue from one particular ideological point of view.

The NCSC Sentencing Attitudes Survey, a national poll of 1,502 randomly selected adults, was designed to fill this void by delivering specific, unbiased information about what people think and why. The new survey thoroughly examines the American public's views toward sentencing and related issues in an objective manner. The new survey was preceded by a review of past survey data. This review revealed that, similar to controversial issues like immigration, abortion, and capital punishment, sentencing is a topic on which public opinion cannot be properly characterized by simply relying on the general measures so commonly used. More specific lines of questioning were developed to dig deeper, clarify previous findings, and identify the competing values and concerns underlying sentencing attitudes.

* This piece was originally published by Princeton Survey Research Associates International in July, 2006.

1. Many knowledgeable individuals contributed to this report directly or indirectly, through the development of the survey questionnaire, analysis of the results, and production of the report. All have our gratitude. We acknowledge the contribution to the survey by members of the Conference of Chief Justices-Conference of State Court Administrators Sentencing Survey Working Group: Chief Justice Alexander Bryner (Alaska), Judge Juanita Bing Newton (New York), Chief Justice Christine Durham (Utah), Chief Justice Gerry Alexander (Washington), and Chief Justice Shirley Abrahamson (Wisconsin). In addition, Daniel F. Wilhelm, Director of Technical Assistance at the Vera Institute of Justice, and David Rottman and Roger Warren of the National Center for State Courts (NCSC) provided useful advice in designing the survey questions and reviewing drafts of the report. The survey was made possible by funding from the JEHT Foundation. We are grateful for that funding and for the sustained interest and encouragement of the JEHT Foundation in the project. All statements and interpretations contained in the report are those of Princeton Survey Research Associates International and do not reflect the policy positions of the JEHT Foundation or the NCSC.

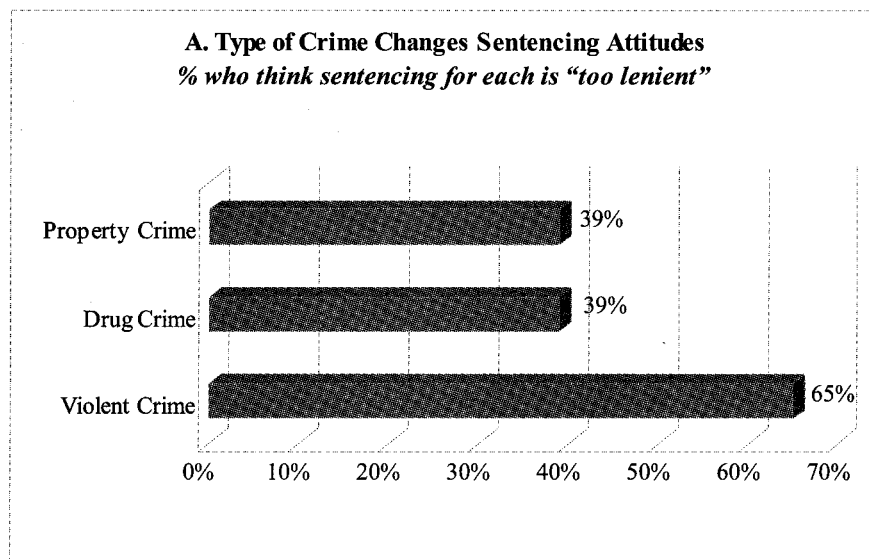
A Consensus View on Sentencing

In their responses to the NCSC survey, Americans reveal themselves to be neither hardliners nor softies in their views about how to best deal with those who commit crimes. People want a criminal justice system that is effective and fair in its sentencing policies and practices—tough when it needs to be to ensure public safety, but more flexible in dealing with offenders deemed less threatening to society, or when rehabilitation might be better achieved through means other than incarceration. While people may not agree on all of the details, there is surprising consensus about various aspects of sentencing as it is and how it should be:

- Americans consistently favor a much tougher approach in sentencing those convicted of violent crimes than they do in sentencing non-violent offenders.
- Americans think rehabilitation is a more important priority than punishment and overwhelmingly believe that many offenders can, in fact, be successfully rehabilitated. But most see America's prisons as unsuccessful at rehabilitation.
- Current sentencing policies and practices are widely viewed as unfair to minorities, non-English speakers, and low income offenders, and prone to give higher income offenders preferential treatment.
- High levels of public support are found for alternatives to a prison sentence like probation, restitution, and mandatory participation in job training, counseling, or treatment programs, at least for non-violent offenders. The public is particularly receptive to using such alternatives in sentencing younger offenders and the mentally ill.

Sentencing Attitudes Differ Dramatically by the Type of Crime

Despite statistics showing a steady decline in the crime rate over the past decade, most Americans continue to think that crime in general (59%), and violent crime in particular (61%), is on the increase. And a large segment of the public (44%) is also not aware that this country incarcerates a higher percentage of its population than the rest of the world. Such lack of knowledge partly explains why some general measures of sentencing attitudes would seem to indicate public demand for an even more punitive approach to sentencing than is currently in place. The NCSC survey finds that more Americans are inclined to say sentencing practices in their state generally are too lenient than believe they are too harsh (48% versus 8%). Those who are misinformed about crime and incarceration are more likely to think sentencing is too lenient than those who know the facts.



However, another important reason general survey measures tend to overstate public support for a more punitive approach is that they force people into one box. When the public is given the opportunity to respond to separate questions about sentencing for different types of crimes, a very different picture emerges:

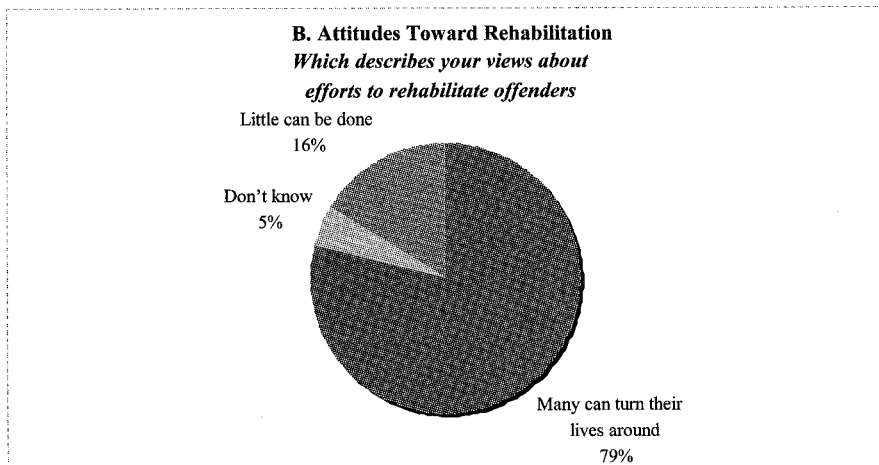
- When it comes to violent crime, majority opinion is decidedly hard line. Two-thirds (65%) think current sentencing of violent offenders isn't tough enough; three-quarters (73%) think that mandatory prison sentences for those convicted of violent crimes is a good thing; two-thirds feel that alternative sentences to prison should hardly ever or never be used in cases of violent crime.
- Majority opinion, however, shifts toward a much more flexible approach when it comes to sentencing non-violent offenders. In the case of non-violent drug crimes, fewer than half the public (39%) perceives current sentencing practices as too lenient; over half (57%) reject the idea of mandatory prison time for offenders in this category, and three-quarters (77%) think that alternatives to prison like probation and enrollment in treatment programs should be used often or sometimes. Opinion is quite similar with regard to non-violent property crimes.

Past survey research has shown public concern about crime being strongly affected by variations in the rate of violent crime. It is violent crime that seems to first come to mind when most people respond to general questions on the subject. But that tends to obscure the very different opinions most people consistently express when asked their preferences for dealing with non-violent offenders.

Rehabilitation Seen as Important, Prisons Not Up to the Task

As previous surveys have indicated, the NCSC survey finds the public generally favoring prevention and rehabilitation over enforcement and punishment as the best way to deal with crime (58% versus 39%). Rehabilitation is seen as achievable for many offenders—eight in ten (79%) reject the notion that little can be done to turn someone into a productive citizen once they turn to crime. But prisons are perceived by most people as not much more than a warehouse—a majority (59%) say prisons are not too successful or not at all successful at rehabilitating offenders so that they don't return to crime when they are back on the street.

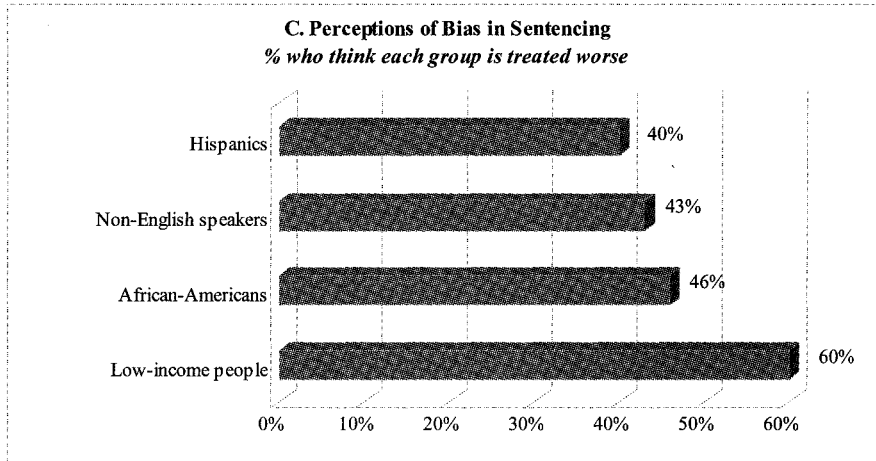
Incarcerating more offenders and keeping them locked up longer means spending more money on prisons, something most Americans view as a bad investment. By a substantial margin (76% versus 19%), the public would rather see their tax dollars support programs that try to prevent crime by helping offenders find jobs and get treatment, than be used to build more prisons. What's more, as a priority for state government funding, prison construction rates quite low with the general public. Three-quarters of Americans (75%) want to see state spending increased for education, and just under that number (70%) want to increase health care spending. In contrast, only a quarter (23%) would support increasing state spending for prisons.



Perceptions of Bias Against Lower Income and Minority Offenders

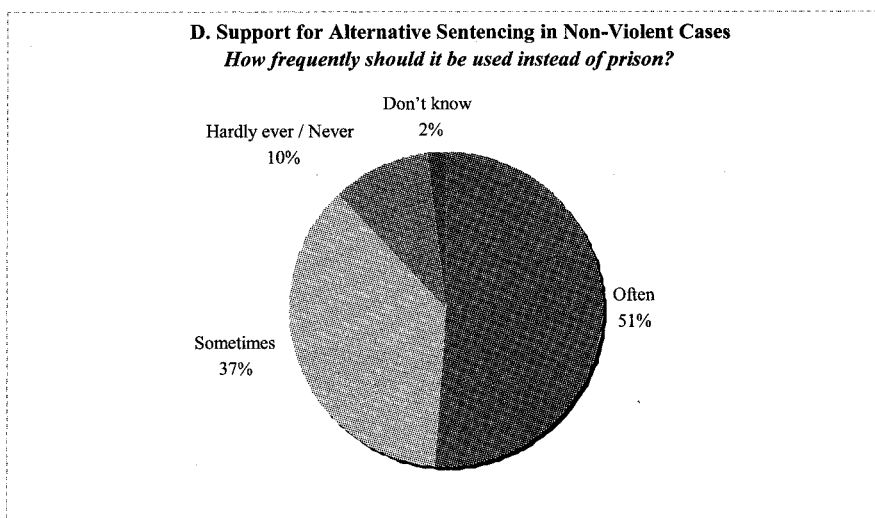
Another factor that tends to temper Americans' appetite for tougher sentencing is a widespread concern that sentencing is not carried out in a way that is fair to all groups of offenders. The NCSC survey finds a majority (60%) feeling that low-income offenders are treated worse than others convicted of similar crimes in the sentences they receive. Just under half the public (46%) feels African-American offenders experience discrimination in sentencing. Four in ten people feel the same about the way non-English speaking (43%) and Hispanic offenders (40%) are treated. While minorities and disadvantaged groups are often assumed to get worse treatment, wealthy offenders are overwhelmingly assumed (81%) to get better treatment than others convicted of similar crimes.

The perception of bias in sentencing on the basis of race, ethnicity, and socioeconomic status is particularly widespread among African Americans. Fully 77% of African-Americans think offenders of their racial background get worse treatment in terms of the sentences they receive and 70% feel the same way about low-income people. While not quite as united in their views as African-Americans, a majority of Hispanics (55%) also believe offenders of their ethnic background face bias in sentencing.



Broad Support for Alternative Sentencing of Non-Violent Offenders

Survey research about sentencing attitudes done in the past had to introduce and explain the concept of alternative sentencing to their respondents. In 2006, however, alternative sentencing is no longer a brand new concept to most people. The NCSC survey finds that about two-thirds of the public (64%) claims to be at least somewhat familiar with different kinds of alternative sentencing that is used in place of a prison term. The general idea of directing non-violent offenders into treatment and counseling programs is endorsed by about half the public (51%) as something that should be used “often” as an alternative to prison. The public supports specific applications of alternative sentencing for non-violent offenders at even higher levels:



- Requiring offenders to compensate their victims for their loss (66% say this should “often” replace a prison term)
- Placing mentally ill offenders in treatment and counseling programs (65% “often”)
- Requiring mandatory education and job training (63% “often”)
- Placing young adult offenders under twenty-five years of age in treatment and counseling programs (61% “often”)
- Placing drug offenders in treatment and counseling programs (56% “often”)

The public is much less familiar with the concept of problem-solving courts than they are with alternative sentencing. Respondents were given the example of drug courts that, instead of jail or prison time, might require non-violent drug offenders to complete drug treatment programs, take random drug tests, and be monitored closely by a judge. Only about a third of Americans (35%) say they are aware of problem solving courts such as this. Despite the lack of familiarity, the public is very receptive to the concept of problem-solving courts as a better way to deal with non-violent criminals than through the traditional courts and prison system:

- Mental Health Courts, where non-violent offenders with mental illness are not sentenced to jail or prison if they remain in treatment ordered and monitored by the judge (82% of the public thinks this is a better way to sentence offenders than the traditional court system)
- Drug Courts, where a jail or prison sentence is not given to non-violent offenders charged with possession of illegal drugs if they complete a program providing drug treatment, random drug tests, and close monitoring by a judge (78% of the public thinks this is a better way to sentence offenders than the traditional court system)
- Domestic Violence Courts, where judges closely monitor offenders who must complete abuse prevention programs and obey the judge’s orders regarding contact with the victim (60% of the public thinks this is a better way to sentence offenders than the traditional court system)

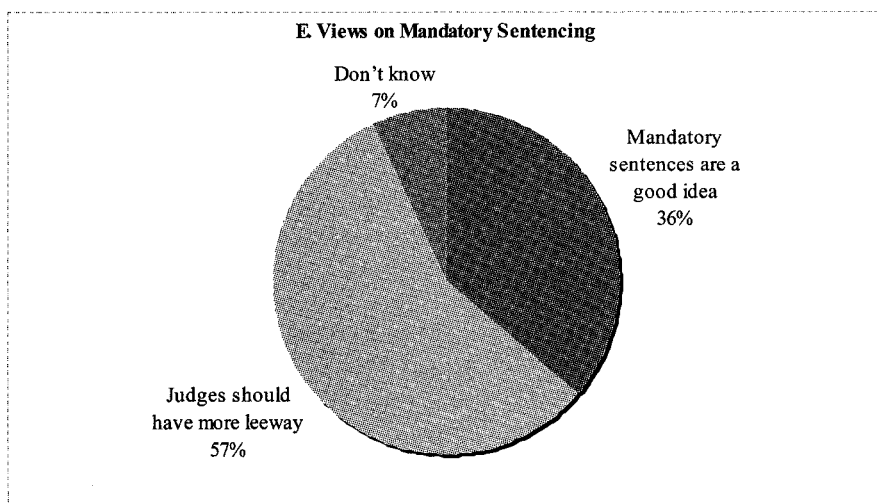
Blame for Sentencing Inadequacies Not Directed Mainly at Judges

The mandatory sentencing laws that take discretion away from judges in deciding sentencing for certain crimes have now been on the books for more than a decade. At this point, most people seem aware of these laws. Close to two-thirds of Americans (64%) say they are at least somewhat familiar with mandatory minimums. Now that mandatory sentencing laws are well established, dissatisfaction with the way sentencing is working does not appear to be as strongly linked to dissatisfaction with judges as it was in the past.

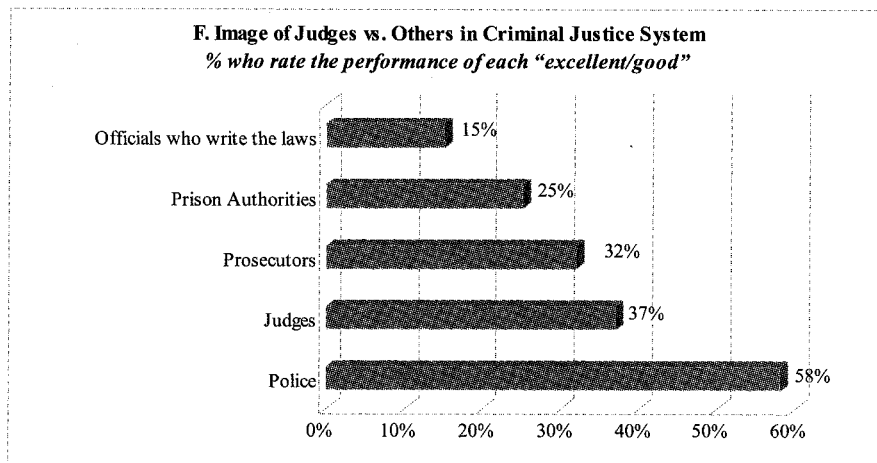
The perception of “soft on crime” judges handing down overly lenient sentences is not as widespread today as might be expected. As noted previously, close to half the public (48%) are critical of sentencing in their state for being overly lenient. But further questioning reveals that most people who feel this way don’t hold judges personally responsible. Overall, only about one in five Americans (18%) thinks sentencing is too lenient *and* says judges are mostly to blame. A greater number think sentencing is too lenient and put the blame elsewhere—17% name elected officials and 10% name prosecutors or someone else. Moreover, the group that blames judges for lenient sentencing is not especially alarmed about crime as a problem in their state. Those critical of lenient sentencing who are especially concerned about crime are more apt to hold state legislators responsible. Those who blame judges for overly lenient sentencing also are no more likely to have a crime victim in their family, or to be better informed about the crime situation.

Rather than wanting to rein in judges, a majority of Americans (56%) say judges should have *more leeway* in sentencing, rejecting mandatory sentencing as a general policy. This is a change from polling ten years ago suggesting that most people welcomed such laws. Much of the unhappiness people have with judges doesn’t result specifically from criticism of sentencing, but reflects broader, system-wide concerns.

When those who rate the performance of judges as only fair or poor are asked why they feel this way, only about a quarter (27%) say they are critical of lenient sentencing or inappropriate sentencing. A greater number attribute their views to something else, including a flawed system (18%), perceived bias or unfairness (8%), politics/cronyism (8%), or concerns about corruption (6%).



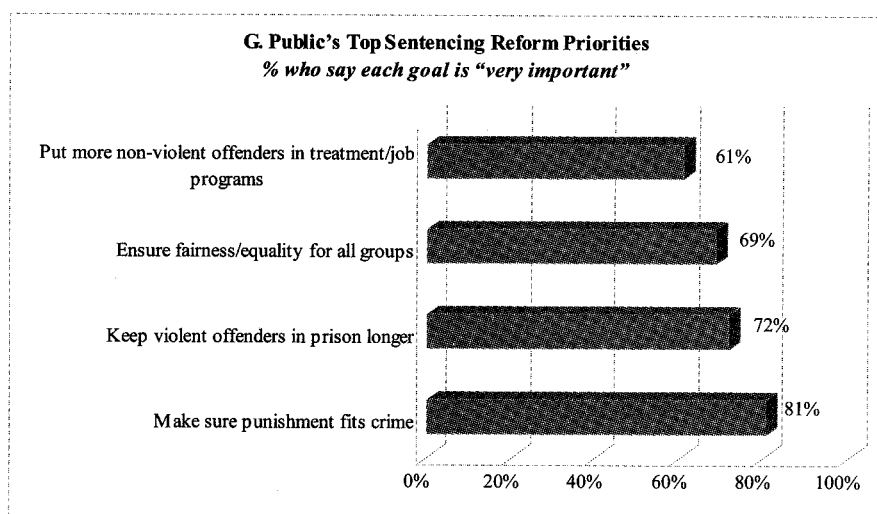
The public is actually less critical of the performance of judges today than it is of other major players in the criminal justice system. Overall, 37% give judges an excellent or good rating, 36% a mediocre rating of “only fair,” and 19% say they do a poor job. The police get better ratings than judges (58% excellent/good), but other players in the criminal justice system like prosecutors (32%) and prison authorities (25%) are regarded somewhat less positively. Elected officials who write the laws—the biggest target for criticism—are regarded a lot less positively (15% excellent/good).



High Support for Sentencing Reform, Judges Playing a Big Role

The NCSC survey finds widespread support for sentencing reform. In 2006, only about one in five Americans (18%) believes that sentencing in their state “is working pretty” well. Three-quarters (76%) believe that changes are needed, including roughly a quarter (27%) who say *major* changes are needed. The public’s agenda for reform reflects their overall sentencing attitudes:

- Getting it right is the top priority—81% say it is very important to make changes to ensure that “the punishment fits the crime.” This sentiment is shared by the strongest advocates of reform as well as those who call for more modest change.
- The public calls for getting tougher with certain offenders, while allowing for more flexibility in handling others. A majority of Americans (72%) believe it is very important to change sentencing to keep violent offenders in prison longer. But a majority (61%) also think it is very important to direct more non-violent offenders into treatment, job, and education programs and to keep them out of prison.
- There is also consensus for making changes to improve fairness in sentencing. Seven in ten Americans (69%) think it is very important that more is done to ensure fairness and equality for all groups of offenders.



One goal of sentencing reform that does not rate as high as a public priority is reducing the size of the prison population. Less than half of the overall public (38%) sees this change as very important. This is the one goal that decidedly separates those who feel most strongly about sentencing reform and those calling for more limited changes. Fifty-one percent of those who think major changes are needed think reducing the size of the prison population is very important, compared with 32% who think changes are needed, but not major changes.

The public very much wants judges to be involved with efforts to reform sentencing. In fact, after state legislators, they are the group most often selected to take the lead in making needed changes. Two-thirds of the public (66%) say judges should play a major role, not a limited role, in sentencing reform efforts, including 19% who want judges to assume the *leading* role.

Sentencing Attitudes Differ by Education, Race, and Party

While there is much common ground among various segments of the population on sentencing issues, certain differences by subgroups should be noted. First, significant differences are seen by education in knowledge levels about crime and punishment in the United States. Those with more education are more likely to be aware that the crime rate has not gone up in recent years and that this country locks up a higher share of its population than other countries. Thirty-six percent of college graduates show themselves to be informed about such issues, compared with only 11% of high school graduates. In terms of attitudes, college graduates are more likely to think prisons are unsuccessful in rehabilitating prisoners. The college educated tend to have a higher opinion of judges and are more likely than those with less formal education to oppose mandatory sentencing for non-violent offenders.

There are also some significant differences in opinion by race/ethnicity. Minorities have a somewhat different perspective on sentencing than whites. African-Americans tend to have stronger views on these issues; Hispanics are not so strong in their opinions. In some respects, minorities can be described as more satisfied than whites with the sentencing status quo. African-Americans and Hispanics are less likely than

whites to think sentencing—both in general and for specific types of crimes—is too lenient. But in other aspects of sentencing, minorities—especially African-Americans—are more critical of the status quo. As noted previously, minorities are much more likely than whites to feel various subgroups of offenders are treated unfairly in sentencing. And there is a great deal of support among both groups for use of alternative sentences for non-violent crimes, exceeding the level seen for whites. As many as half of African-Americans say they would support using alternative sentencing for *violent offenders*, something that sets them apart from all other groups.

Finally, political partisanship seems to color sentencing attitudes to some extent. Where there are differences by party identification, the views of Republicans tend to diverge from those of Democrats and Independents. Republicans are more apt to perceive the courts as too lenient and generally support stronger punitive measures for dealing with offenders. About half of Republicans think the courts are too lenient in sentencing non-violent offenders and a similar number approve of the mandatory sentencing for such crimes.

Democrats and Independents generally see fewer flaws with current sentencing overall, but are more likely to perceive sentencing bias against certain groups—Democrats even more so than Independents. Alternative sentencing for non-violent crimes is supported across party lines, but Democrats and Independents are more likely to endorse using various alternatives to prison on a regular basis.

Despite these differences by party identification, support for the various elements of sentencing reform is found across political lines. About three-quarters of Republicans, Democrats, and Independents see a need for changes in the way sentencing is working. Clear majorities of all three groups want more done to make sure the punishment fits the crime, violent offenders get longer terms, and all offenders receive equal treatment. Republicans are less likely to endorse the goal of more alternative sentencing for non-violent offenders, but even in this case, about half of Republicans agree it is very important to make this change.

All in all, there are more areas of agreement than disagreement when Americans think about how sentencing is working and how they would like it to work. While the debate about such issues is often ideological in nature, most people seem to care less about ideology than they do about making sentencing more effective, fair, and proportionate to the offense committed.

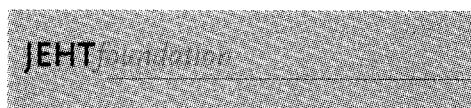
SURVEY METHODOLOGY

The National Center for State Courts (NCSC) Sentencing Attitudes Survey obtained telephone interviews with a nationally representative sample of 1,502 adults living in the continental United States in telephone households. The survey was conducted by Princeton Survey Research Associates International (PSRAI). Interviews were done in English and Spanish by Princeton Data Source, LLC from March 6 to April 9, 2006. Statistical results are weighted to correct known demographic discrepancies. For results based on the total sample, the overall margin of sampling error is $\pm 3.1\%$.

A comprehensive description of the survey methodology is included in the Appendix of the full survey report.

THE NCSC SENTENCING ATTITUDES SURVEY:
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RESEARCH BY PRINCETON SURVEY RESEARCH ASSOCIATES INTERNATIONAL
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The JEHT Foundation, established in April 2000, is committed to the core values of Justice, Equality, Human Dignity, and Tolerance. The Foundation's Criminal Justice Program focuses, in part, on promoting systemic change in policies and practices related to sentencing, including greater use of alternatives to incarceration. For details, go to www.jehtfoundation.org.



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