WHAT DO I HAVE TO DO

TO CHANGE YOUR MIND?

Changing Public Attitudes to Crime and Punishment

A SMART ON CRIME PRINT AND E-PUB SERIES FROM RETHINKING CRIME AND PUNISHMENT
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Preface

In the first issue of the Smart on Crime series, “Toward a Criminal Justice Strategy – 2015 and Beyond”, we proposed a three-pronged approach toward the development of a new strategy. In summary, we propose that the nation should:

- examine the operational effectiveness of the criminal justice system that exist now, and introduce policies, actions, and strategies that have an early impact on reducing crime and social harm;
- develop strategies to reduce the drivers and causes of crime, over time, including the reduction of inequality and social deprivation;
- develop a national vision we want as a nation, and how the justice system might best reflect the collective values and attitudes of the nation. We need to engage in a community dialogue about the shape and nature of criminal and social justice for the future.

But what do we do when we come up with new ideas and ways of doing things, only to find that, regardless of the potential of the idea for reducing harm and social harm, there is widespread resistance by politicians, the media, and members of the public? This second issue of the Smart on Crime series takes a close look at why we resist changing our approach to crime and punishment, and what we can do about it. It addresses three issues

(a) How Our Values and Attitudes are Formed and Influenced
(b) ‘What Works’ in Changing Public Attitudes to Crime and Punishment
(c) The Way Ahead – Strategies to Change Public Opinion.

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Rethinking Crime and Punishment
How Our Values and Attitudes are Shaped and Influenced

*Moral Intuition and Moral Reasoning*

Most people rely on their “gut instinct” in dealing with a criminal justice issue; but where does this come from? In a recent publication,¹ social psychologist Jonathan Haidt explores the origins of difference. His starting point is moral intuition – the spontaneous perceptions that all humans have about other people and the things they do. He argues that these intuitions feel like self-evident truths, making us righteously certain that those who see things differently are wrong. He shows how these intuitions differ across political and ideological cultures, explaining that moral intuitions arise long before moral reasoning has a chance to get started, and that these intuitions tend to drive out later reasoning. Moral reasoning, then, should be regarded as a skill which evolves to further our social agenda, and can best be enhanced when we understand that for the most part, moral arguments are mostly post hoc constructions made up “on the hop” to advance one or more strategic objectives.

*Protecting our Social Identity and Values*

Is it ever possible to change entrenched public attitudes once they are formed? Recent research by Tom Crompton shows it is a very difficult thing to accomplish.² Supported by research in over 70 nations, and written around the challenge of environmental change, Tom Crompton’s report equally applies to the area of crime and punishment. In summary, the report concludes that the view that people make rational decisions by assessing facts and deciding which options best support their interests and desires, is empirically untrue.

Instead, we accept information that confirms our identity and values, and reject information that conflicts with them. We mould our thinking around our social identity, protecting it from serious challenge.

Our attitudes toward crime and punishment issues are shaped by our social identity and values. In order for our thinking to make the shift, it may require us to undertake a shift in our personal values and attitudes. That is a lot to ask.

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**The Shifting Baseline Syndrome**

How are our personal values formed? Biologist Daniel Pauly\(^3\) considers that most of us perceive the circumstances of our youth as normal and unexceptional – and come to accept the values and attitudes that shaped our early existence as natural, immutable and unable to be changed. When Garth McVicar talks with fondness about his childhood, and the lack of criminal activity during the 1950s and 60s, he connects that time of peace and order with the values that he and his family held and still hold.

In the same way, young people who were raised in poverty, or in violent dysfunctional families, will over ensuing generations, adjust to almost any degree of deprivation or oppression, because they cannot conceive of an alternative – they cannot imagine what a better life might look like.

> “We were raised badly by our own whanau and then ostracized by our own communities. The simple fact is that we don’t know how to parent – we don’t know what being a good parent looks like.” Gang member, Otatara Awakening Hui, February 2012.

The difficulty is that our view of the world and the people round us is so strongly shaped by early experiences, that we do not always keep pace with the changing world, and fail to accept either that things have changed, or that there are mechanisms of support which are able to help us transform. Let’s take another look at the two examples.

In a July 2014 Radio New Zealand interview,\(^4\) Garth McVicar talked about how New Zealand had become a nation ridden with crime and violence, and claimed that where once there were one or two murders a year, there were now around 160 homicides a year.\(^5\)

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5. Murder and manslaughter are the two main categories of culpable homicide, or the illegal killing of one person by another. Murder usually entails the deliberate, intentional harm of another person with the knowledge that death is likely, while manslaughter refers to accidental death usually arising from an unlawful act or neglect where death could not be reasonably predicted.
The graph below tells a different story:

What it tells us is that there has never been a time in our history when there were 2 or 3 murders a year, and that the periods 1890 – 1900, and 1980 – 1990 were the two worst periods for murder in our history. The number of homicides was regularly well above 100 cases in the 1990s, but over the past four years it has varied between 68 and 97 cases – still too many, of course, but the trend is positive. At 0.9 murders per 100,000 of the population, we have a marginally lower murder rate than comparable nations, with the United Kingdom at 1.0, Australia 1.1, and Canada at 1.6; all much lower than the USA at 4.8.

Look at the graph again. The murder rate, (and the crime rate) rose from the mid 1950s until around 1990, and has been in steady decline since.

Other research shows that the older the age group, the more likely they are to under-report the level of crime that existed during their own adolescence, and over-report the level of crime and violence existing today. Almost without exception, whatever the age group, most of the public remain firm in their belief that crime has steadily increased over the last decade. The difficulty arises when opinion leaders send out public messages based on beliefs they formed as adolescents. The impact can generate public fear and discourage fresh thinking about how to reduce crime and social harm. In the same way, those people who are unable to move beyond a deprived or dysfunctional childhood, tend to treat their children in the way they were treated, thus perpetuating a cycle of fear, violence and crime. Those who want to change from a life of crime find it a considerable challenge.

“Let’s face it, we live in a jungle and we have to learn to survive in it. Right now, we’re safest up a tree.” Gang member, Otatara Awakening Hui, February 2012

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6  http://www.rethinking.org.nz/assets/Picture1.png

7  UN Office on Drugs and Crime 'Global Study on Homicide 2013 – Trends, Context and Data'.
Understanding Our Values and How They Shape Our Attitudes

Social scientists tell us that our values form into two basic groups – intrinsic and extrinsic. Intrinsic values are strongly associated with an understanding of others, tolerance, appreciation, cooperation and empathy.\(^8,9\) They concern relationships with friends, family and community, and self-acceptance. Those who have a strong set of intrinsic values are not dependent on praise or rewards from other people. They have beliefs that transcend their self-interest.

Those with strong extrinsic values tend to have lower empathy, a stronger attraction towards power, hierarchy and inequality, greater prejudice towards outsiders and less concern for global justice and the natural world.\(^10,11\)

Societies in which extrinsic goals are widely adopted are more unequal and uncooperative than those with deep intrinsic values. In one experiment, people with strong extrinsic values who were given a resource to share soon exhausted it (unlike a group with strong intrinsic values), as they all sought to take more than their due.\(^12\)

We know that extrinsic values concern status and self-advancement. People with a strong set of extrinsic values fixate on how others see them. They cherish financial success, image and fame. These clusters exist in opposition to each other: as one set of values strengthens, the other weakens.\(^13\)

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The Impact of the Social Environment

We are not born with our values. They are shaped by the social environment. By changing our perception of what is normal and acceptable, politics alters our minds as much as our circumstances. There was a time in New Zealand history, when we believed that anyone who needed health treatment should receive it without payment, when tertiary education should be free, when it was normal to care for those who were less fortunate than ourselves, and wrong and abnormal to neglect them.14

‘The Values Ratchet’

Values have steadily changed with more people believing that the State has less responsibility to support the poor and weak, especially if they are seen as being primarily responsible for their own situation.

This is known as the ‘Values Ratchet’ i.e. when we change the way society works, our values shift in response. Privatisation, the market economy, austerity for the poor and acceptance of inequality all serve to shift the values baselines, alter the social cues we receive and generate a culture of insecurity and uncertainty.

In New Zealand, that shift began in the mid-1980s, when the government reforms emphasised the value of a market economy, financial success, and individual effort. That shift encouraged politicians across the board to develop policy that cultivated extrinsic values. Since 1985 successive governments have moved the nation and the media toward values that are more characteristic of a neo-liberal or conservative orientation. There are three strategies that are commonly used to achieve this outcome.

Generating Fear

Politicians and the media know about fear – and how to generate it. Recent research shows that when people feel threatened or insecure they gravitate towards extrinsic goals.15 Perceived dangers – such as the threat of crime, increased gang activity, and deteriorating levels of public safety, trigger a short-term survival response, in which people tend to protect their own interests and forget other people’s.

The media plays an important role in generating public fear. Between 1992 to 2001, the reporting of crime rose by an average of 20% in our daily newspapers, even though the crime rate steadily declined during the same period.16 New Zealand data collected just prior to the Olympics on the TV News showed that on average about 20% of the main TV news stories were about crime and about half were stories dealt with on either crime or disasters. The same research found that on two days in one
week, the NZ Herald carried 55.6% and 46.9% crime news.\textsuperscript{17} Atkinson found that on Television One's Network News 13.8% of items in 1993 were crime and prison stories (second behind sport); 55% of these stories were about violent crime, 25% were about non-violent crime, and 20% were stories about prison.\textsuperscript{18}

A 2003 Ministry of Justice survey showed that the public believed that violence made up about two-thirds of all reported crime – when it in fact represents about nine percent. All of those surveyed thought crime was on the increase, when the opposite was the case.\textsuperscript{19}

**Creating New Frames of Reference**

The second method is the creation of new frames or structures of thought through which we perceive the world. For example, prior to 1985, prison was officially regarded as the sentence of last resort; to be avoided at all costs. The 1981 Penal Policy Review Committee,\textsuperscript{20} recommended inclusive social and welfare programmes, with more humane, penal measures, and the sparing use of imprisonment. From 1985 onwards, offenders were increasingly cast as a risk to public safety, with prison serving the useful purpose of “incapacitation” and “preserving public safety.” The view was promoted that while offenders were in prison they could not commit crime in the community. The evidence which showed that offenders sent to prison are much more likely to reoffend once released was ignored,\textsuperscript{21} as was the evidence about the adverse effect imprisonment has on the family and whanau of prisoners.\textsuperscript{22, 23} Over time, imprisonment has been promoted as a positive experience.\textsuperscript{24}

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\end{figure}

\textsuperscript{17} Supra
\textsuperscript{19} Attitudes to Crime and Punishment: A New Zealand Study, Ministry of Justice, Wellington, New Zealand, December 2003
\textsuperscript{23} National Health Committee (2010). Health in Justice: Kā Piki te Ora, Kā Tika! – Improving the health of prisoners and their families and whānau: He whakapiki i te ora o ngā mauhere me ō rātou whānau, Wellington: Ministry of Health.
Consider this example. A recent Corrections pamphlet on treating young offenders, includes the following claim:

“Spending time in prison can open up a new world of opportunities for those young people who may have missed out on schooling or never had a job.”

Promoting prison as a positive experience for young offenders ignores the fact that 89% of youth prisoners have previously been in the care or supervision of Child, Youth and Family. They have already been failed by one government institution. As the reoffending statistics show, around 80% will reoffend after leaving prison. It also flies in the face of the evidence about the effect of incarceration on young offenders. New Zealanders Ian Lambie and Isabel Randell’s recent research shows that:

- incarcerating youth in prison has little positive impact in reducing crime;
- the literature highlights this problem, particularly in adult facilities;
- there are many negative effects from incarcerating young people in prisons;
- incarceration fails to address both the young person’s developmental and criminogenic needs.

**Milking Emotion**

Indermaur and Hough argue that “anyone who wants to improve public debate about crime needs to be attuned to the emotional dimension of attitude formation.” The punishment of criminal offenders is a deeply emotive issue – and yet academics tend to favour the rational and logical over the emotive, and dismiss the latter as irrelevant and misguided. The public, on the other hand, has little problem with “gut reactions” and supporting what “feels right” rather than what they are told is logically correct, or empirically proven. That is why punitive policies and practices win votes – they meet the emotional needs of voters and tax-payers.
Emotions of fear, anger and disgust are certainly easy to elicit on topics of crime and punishment and, as Karstedt\textsuperscript{29} points out, can provide strong ground for even more repressive policies. To reduce public input to that of emotional reaction denies the more pragmatic public interest in the effectiveness of sentencing and approaches to reducing crime.\textsuperscript{30} The relentless focus on whether the public want “tougher” or more “lenient” sentencing, or on issues such as name suppression, the public naming of sex offenders, and whether or not offenders should be bailed or paroled, focuses on the emotional dimensions of public attitudes, and allows both the media and politicians to exploit “the voice of the people” for their purposes. This is fundamentally disrespectful of the public, and dismisses it as a viable force for policy development.\textsuperscript{31}

\textsuperscript{31} Indermaur, David et al, “A matter of judgement: The effect of information and deliberation on public attitudes to punishment”, Punishment & Society 2012 14: 161
‘What Works’ in Changing Public Attitudes to Crime and Punishment

Criminal justice systems depend on public confidence for their effective operation. Poorly informed (or misinformed) public opinion can drive policy towards ineffective or unfair responses to crime. Often the process is a reactive one, but sometimes politicians and the media can be proactive in exploiting public misunderstanding about an issue in order to develop electoral support. The punitive agenda thrives on public misunderstandings about crime and justice, and honest politicians are sometimes at a disadvantage if others are perceived as presenting “solutions” to crime problems.

Rethinking Crime and Punishment’s approach is to address public attitudes on three fronts:

a) The cognitive level – the quality and level of information;

b) The emotional level – fears, frustrations and uncertainties;

c) The political level – engaging and encouraging politicians across the spectrum in pro-active advocacy for change.

The Link between Public Knowledge and Public Attitudes

There is a clear link between public knowledge and public attitudes. In general the most misinformed members of the public tend to be the most critical. Public education is an important part of the strategy. The research suggests that public attitudes to the sentencing of offenders become less punitive when participants are provided with more information about sentencing options, the arguments for and against a specific approach or policy, and details about the offence and/or offender. The less people know, the more punitive the response.32

When the public are fully informed about the specific conditions of community-based sentencing or alternative sentencing options they are less inclined to opt for the alternative of imprisonment. However, it is extremely important to provide the public with all the arguments for and against, and ensure that the information is not biased in any way.

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**The Place Of Deliberative Discussion**

**Explaining Things Better**

Morgan had been a tearaway as a youngster, and his early adulthood was punctuated with constant clashes with the law, and a couple of short spells in prison. Now in his 30s, and living in the small rural township, he had decided to turn his life around. With the help of his employer, a market gardener, Morgan set about getting his financial affairs in order. His boss, a good hearted but rather unworldly man, set up Morgan with a bank account, into which he deposited a weekly amount. Finally he gave Morgan a cheque book, and explained how he could now pay for items with a cheque, and withdraw money from the bank.

Off Morgan went complete with cheque book, and bought three pairs of socks at the local store. Jack, the storekeeper noticed that it was unsigned. “Morgan, you haven’t signed the cheque”. “Oh,” he said, “I’m not going to sign the cheque – you guys could use the signature to rip me off. That’s my personal property. If I sign it, you might use it later and steal my money.” Try as he might, Jack could not persuade Morgan to sign the cheque. He then had an idea. “Why don’t you go over the road to the BNZ, Morgan. They issued the cheque book – get the money out of the bank, and then come back and pay cash for the socks. Good idea, thought Morgan. Cousin Millie works at the bank – she’ll give me the money. So off he went.

Off he went to cousin Millie. He presented the cheque without the signature. Millie looked at it and said, “Morgan, you have to sign the cheque.” “I’m not signing the cheque,” said Morgan – “you guys could rip me off – you might use it later to steal my money.” The same circular discussion went on, until finally, cousin Millie lost her patience. Grabbing him by the hair, she whacked his head down on the counter three times, on each occasion shouting, “Sign the f……cheque”. Morgan signed the cheque, got his money, and went back to the Co-op to buy his socks.

Jack the storekeeper was amazed. “You got the money!” exclaimed Jack. “You must have signed the cheque! What made you change? “Well,” said Morgan, “They explained things better”.

Badgering people into changing their attitudes by forceful declaration of the true facts or, in Morgan’s case, “explaining things better”, are unlikely to succeed. Assumptions that the public is misinformed and should be either dismissed or educated may actually contribute to the stalemate. If the public is to be a vital ingredient or ideally partner in the development of policy we need to focus more on the level and nature of engagement with the public and consider what democratisation of policy in this area might look like.33

There are three elements of informed public opinion: information, deliberation, and responsibility taking.34 It is not sufficient just to provide information; people tend to receive it without it impacting on their mindset or key values. Changes can occur however, through the process of deliberative discussion,35 which has the potential to move the focus from an emotional expression to a more rational assessment.

Deliberation is achieved through a range of methods – consensus conferences, public debate, citizens panels, planning workshops, and deliberative polling. Participants are provided with comprehensive information about the issue being considered, and encouraged to challenge and consider each other’s views before coming to a final and common view. It is noted that a form of such public engagement has been used in the field of criminal justice for centuries in the form of the jury.

Such a process engenders responsibility and accountability, and an expectation that people will have to explain their view or conclusion to others. There is clear evidence that once the public have the opportunity to consider an issue in depth, there is potential for initial attitudes to change. However, there remains no solid evidence of durable changes in attitude; nor does a change of view on one topic have a generalising effect in relation to other associated issues.

**Managing Misinformation**

More than any other sector, discussion on crime and justice is stacked with misinformation. As misinformation is repeated by media, and extremist advocates, it can become entrenched in parts of the community, particularly when vested interests are involved.37,38 Reducing the influence of misinformation is a difficult and complex challenge.


35 deliberative – involved in or characterized by deliberation and discussion and examination; “a deliberative discussion”


A common misconception about myths is the notion that removing their influence is as simple as packing more information into people's heads. This approach assumes that public misperceptions are due to a lack of knowledge and that the solution is more information – in science communication, it's known as the “information deficit model”. But that model is wrong. People don’t process information as simply as a hard drive downloading data. Refuting misinformation involves dealing with complex cognitive processes. It's not just what people think that matters, but how they think.

The term “misinformation” is used to refer to any information that people have acquired that turns out to be incorrect, irrespective of why and how that information was acquired in the first place. We are concerned with the cognitive processes that govern how people process corrections to information they have already acquired. If you find out that something you believe is wrong, how do you update your knowledge and memory?

The evidence indicates that no matter how vigorously and repeatedly we correct the misinformation, for example by repeating the correction over and over again, the influence remains detectable.39 There is also an added complication: not only is misinformation difficult to remove, debunking a myth can actually strengthen it in people's minds. Several different “backfire effects” have been observed, arising from making myths more familiar,40, 41 from providing too many arguments,42 or from providing evidence that threatens one's worldview.43

**Debunking Myths**

“The great enemy of truth is very often not the lie – deliberate, contrived and dishonest – but the myth – persistent, persuasive and unrealistic. Too often we hold fast to the clichés of our forebears. We subject all facts to a prefabricated set of interpretations. We enjoy the comfort of opinion without the discomfort of thought. [Commencement Address at Yale University, June 11 1962]”44
The basic principles Rethinking Crime and Punishment follows when debunking a myth are:

(a) focus on the facts, rather than the myth you want to debunk;
(b) confine your counter arguments to 2 or 3 key ideas – don’t overwhelm the public with complicated arguments;
(c) target your message toward the undecided majority rather than the unswayable minority;
(d) use arguments and language that conform to the respondent’s world view e.g. talk about rehabilitation programmes in terms of their cost: benefit ratio, rather than whether or not they reduce offending;
(e) provide an alternative explanation for the myth, rather than challenge it.\textsuperscript{45}

In 2011, Rethinking Crime and Punishment published a pamphlet entitled, \textit{There Has to be a Better Way} in which it identified the twelve most common myths about prisons, and debunked them.\textsuperscript{46} http://www.rethinking.org.nz/assets/Pamphlets/Better_Way.pdf

\textbf{The Boundaries of Political Permission}

There is another factor at play. Public policy on crime and punishment issues establishes what social scientists call “the boundaries of political permission” i.e. the limits or borders within which public policy will be supported, or tolerated, by the public. Political leaders who formulate public policy outside these boundaries of permission will find that the public will resist the policy and look for a different approach. There is still very little support, for example, for the reintroduction of the death penalty. Both the community and the media were recently divided on the merits of a publicly accessible register for sex offenders. On the other hand, New Zealanders are very much in favour of raising the age at which young people can consume and purchase alcohol, a policy that does not find favour with politicians.

Research shows that most members of the public frame policy issues differently than policy experts and political leaders. They do not see crime problems being addressed by a “silver bullet” approach, with the emphasis on one approach, e.g. crime control, punishment, rehabilitation or deterrence. On the other hand politicians, especially those with a strong legal background, tend to deal with issues through the introduction of legislation to control or suppress behaviour, rather than taking a more strategic approach. There is strong public support for introducing restorative justice conferences alongside a punitive sentence, or ensuring that persons sent to prison have mandatory access to drug and alcohol treatment. Understanding how the public frames an issue, will help us attain a better understanding of public opinion, and map out our public thinking. The same people that call for increased imprisonment for violent offenders, are also highly supportive of policies that favour rehabilitation over


\textsuperscript{46} “There Has to be a Better Way” – http://www.rethinking.org.nz/assets/Pamphlets/Better_Way.pdf
imprisonment, supported expanded drug and alcohol treatment, and the use of non-custodial, community based or alternative sentences with both non-violent and violent offenders.

Claims by politicians and “tough on crime” lobby groups that the public want a more punitive approach are not supported by evidence – indeed, there has not been any local research on public attitudes to crime and punishment since 2003. Research in comparable nations very much support the anecdotal evidence in New Zealand.47, 48, 49, 50, 51

In brief, the public generally agree that:

- responding to crime involves far more than criminal justice agencies. They see a significant role for schools, for parents, and initiatives which address the causes of crime;
- sentencing serves a number of different purposes, according to the characteristics of each case, and the circumstances which contributed to the offending – in this regard, they behave very much like a sentencing judge;
- offenders and victims should be treated fairly by the criminal justice system – they do not support approaches that are over-lenient or over-harsh;
- “paying back” the victim is a very attractive idea, either through reparation or compensation, or through service of some kind; if that occurs, then they are willing to forego a more severe punishment, such as prison;
- there has always been strong support for crime victims; every reform that has promoted the needs and rights of victims in the criminal process has met with high public approval.

Public Support for Crime Prevention

Politicians seem reluctant to promote preventive or restorative responses to crime for fear of being seen as “soft on crime”. However, the public significantly disagrees with this idea, and are as interested in crime prevention as they are in punishment. Unfortunately, stories on successful crime prevention or community development measures, do not generate the sort of publicity favoured by the news media, and therefore accounts for far fewer media stories. Preventive programmes do not have the high visibility responses of punitive approaches, e.g. three strikes. That does not need to be the case; addressing crime through community and social development has the potential to attract great media stories.

**Reframing the Issues**

Over the last five years, the “tough on crime” rhetoric has been steadily overtaken by a more rational and logical approach. Politicians and the media began “reframing” the issues, influenced initially by the global economic downturn. When, in 2009, the Deputy Prime Minister, the Hon Bill English referred to imprisonment as both a “fiscal and moral failure” he gave politicians, public servants and the public permission to talk about the effectiveness of prison as punishment. That discussion increased general awareness of the futility of prisons – that there is no evidence that they act as a general deterrence, or reduce reoffending. They are one of the causes of crime. The longer you stay in prison, the more likely you are to offend when you leave. The more harshly you are treated, the more likely you will be to victimise innocent people on release.

Following the 2008 general election, there were two significant shifts. Government started to join the dots between criminal justice policy and the wider social policy agenda. Ideally, criminal justice policy should be a sub-set of social policy. In 2009, the government introduced the *Drivers of Crime Strategy* – a strategy to address underlying causes of criminal offending and victims’ experiences of crime. It recognised that certain circumstances of people’s lives are associated with a greater likelihood of offending and victimisation. The initial Ministerial meeting, and the expert reports that contributed to it, identified key issues which impacted on crime. There have since been a number of public inquiries and expert analysis on issues that contribute to crime – alcohol reform, social housing, child poverty, inequality, family violence, drug law reform and child abuse.

The second major initiative was launched in 2011 – the *Better Public Service Reducing Crime and Reoffending Action Plan*. This has become a major government platform, and the regular public progress reports provide assurance that this government is serious about crime. The emphasis is on developing evidence-based policies, which are effective in reducing crime and reoffending.

There is growing evidence that the punitive attitudes that determined the course of a very punitive criminal justice system have run their course. What evidence there is suggests that public attitudes were never as punitive as politicians imagined. A 2013 Colmar Brunton Survey commissioned by the Ministry of Justice into *Public Perceptions of Crime*, showed that only 5% of respondents agreed that prisons deterred people from committing crime, with the same number advocating for harsher treatment, mostly in the form of longer sentences. Only 6% considered that increasing rehabilitation in prisons would increase their confidence in the justice system, while twice that number (11%) favoured community-based rehabilitation. The public taste for punishment is waning.

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The Way Ahead – Strategies to Change Public Opinion

“Every opinion is a marriage of information and predisposition: information to form a mental picture and predisposition to motivate some conclusion about it.”

Indermaur and Hough identify three principal issues with which we must deal:

- the experience of insecurity and the implication that crime is its cause;
- the transformation, through political rhetoric, of popular fear, sense of threat and insecurity into emotions of frustration, anger and entitlement;
- the use of crime as a symbolic issue in response to which politicians can present themselves as determined, decisive and effective.

How Should We Respond?

Rethinking Crime and Punishment exists to encourage discussion and dialogue on strategies, policies and practices which contribute to the reduction of crime and social harm. Its activities focus on:

- providing the public with better information about crime and justice issues;
- achieving more effective promotion of policies that are supported by research evidence;
- mounting more effective challenge or rebuttal of policies whose surface plausibility is unsupported by research;
- ensuring stricter political accountability for the consequence of electorally attractive policies;
- providing a “replacement discourse” – an alternative discussion that focuses on relevant goals such as securing community safety.

A Case Study in ‘Replacement Discourse’

There has been considerable discussion recently on a government proposal to introduce a sex offender register, along the lines of the UK register. Public debate focussed on whether or not the register should be made public.\(^{55}\) What was of less interest was how effective this strategy will be in protecting children from child abuse. Rethinking’s research into the issue, failed to uncover any evaluation or research to demonstrate that the register would make any difference. This policy was primarily a response to clamour from the Sensible Sentencing Trust for a sex offender register.

Rethinking Crime and Punishment subsequently proposed an alternative strategy to reduce child sex abuse, which is summarised in an opinion piece in the NZ Herald, “Forget sex offender register – focus must be on prevention”.\(^{56}\)

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**Forget Sex Offender Register – Focus Must Be On Prevention**

The Cabinet’s agreement to establish a child sex offenders register, but to limit it to government agency access, is a cautious step in a dangerous direction.

Publicly accessible registers in the United States have not worked, and there is evidence that they have increased the level of offending.

The UK model, after which the New Zealand model is likely to follow, has been operating since 1997. It hasn’t done any great harm, but there is no evidence it has protected children from sexual abuse.

Why, then, invest in a costly and time-consuming process, in the absence of any evidence for its success? Is it that, once again, politicians have fallen prey to the rhetoric and remonstrations of the punitive few?

If we’re serious about protecting our children from sexual abuse, then we need a strategy which deals with the facts.

First, 90 percent of all child sex abuse is unreported and the offenders are unknown to the police.

Second, 80 percent of all sex offenders in prison are there for the first time; they had no known history of offending. None of those people will be on the register – how will that protect our kids?

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Third, one of the Government’s goals is to reduce reported crime by 15 percent, which won’t help us fish out the 90 percent of offenders yet to be detected.

Fourth, most families who have a sex offender in their midst (including rapists), will not report them to the police because of the trauma involved in the judicial process, and their exposure to community shaming and stigmatisation.

To achieve meaningful results, we need to take an entirely different approach.

First, we need a goal in which the justice sector is required to increase the percentage of previously unknown child sex offenders reported to the police.

Second, the Government needs to accept it is important to provide opportunities for families to bypass the criminal justice system and refer the offending family member to a community-based sex offenders’ treatment programme. Prevention is more important than punishment. When families know they can get funded treatment and support without being exposed to public shame and ridicule, they will be more likely to act.

That, in turn, calls for another Government goal: to increase the number of previously unknown sex offenders referred for community-based treatment.

Finally, we need a social marketing programme similar to the “It’s Not OK” campaign, which encourages families and community to take protective action, provides good information to them about child sex offending, and tells them what they can do to keep their children safe.

More legislation and measures of control and monitoring will not work.

Why not become a world leader in reducing child sex crime, rather than continuing to emulate unsuccessful programmes from overseas.
The Public and Civil Society as ‘Circuit-Breaker’

This paper is intended to identify and highlight the way in which knowledge about crime and punishment is presented to the public by politicians and public servants, and subsequently distorted and shaped by the media. It is impossible to ensure that institutions and government agencies remain free of political influence and ideology. It is therefore important that the public and civil society remain alert to those factors that influence their thinking, and build in safeguards to ensure that the quality of information provided on crime and punishment is adequate to properly guide public debate and policy.

Rethinking Crime and Punishment encourages the public and the media to delve deeper into crime and punishment policies and proposals. We suggest that each new policy should be considered in depth, by asking ourselves the following questions:

- What was my initial “gut” reaction to this proposal? Is it consistent with my personal values and beliefs?
- Is there sufficient information about the proposal to enable me to make an informed and rational decision about the proposal? What additional information do I need? Where can I get it from?
- What does the media say about this proposal? Is its focus on the emotive elements of the issue, or does it provide an in-depth analysis of the policy, its strengths and weaknesses?
- What are opinion leaders saying on the issue? Can I identify the different views about the proposal and the reasons in support of, or against, the proposal?
- What is the purpose of the proposal? Will it reduce crime, reoffending and social harm? Is it primarily about controlling behaviour? If so, will it reduce crime?
- Does the proposal breach the Bill of Rights, or human rights legislation and covenants to which New Zealand is a party? If so, can the breach be justified?
- What is the evidence for its likely success? Is the proposal evidence-based, or an exercise in political grand-standing? Is it based on good evidence, or does it perpetuate a myth?
- What will this policy cost? Has there been any cost/benefit analysis?
- Could a different strategy present a better result? If so, how would this affect the cost/benefit analysis?
- If the policy is introduced, would there be any unintended consequences?
A Final Recommendation

The quality of policy advice provided by government to Parliamentary Select Committees varies considerably. In recent years there has been a significant deterioration in the quality of Regulatory Impact Reporting by government agencies to Parliamentary Select Committees on criminal justice issues. The establishment of an independent Criminal Justice Forum, comprising experts and experienced criminal justice practitioners, would act as a “circuit breaker” between politicians, the public sector, and civil society. It would create a source of independent high-quality information and a capacity to evaluate the efficacy of crime policies, so that the media and the public could be properly advised about the merits or otherwise of new policy. This process could shift the focus from emotive and ideologically driven policy, to policy that has a greater potential to reduce crime and social harm.

It’s what is known as being Smart on Crime.
WHAT DO I HAVE TO DO TO CHANGE YOUR MIND?
What Do I Have To Do To Change Your Mind? is the second in a series of contributions to encourage public discussion on criminal justice issues.

An ePub version of this document is available www.rethinking.org.nz

The Robson Hanan Trust administers the Rethinking Crime and Punishment project, and Justspeak, a non-partisan network of young people who want change in our criminal justice system.

It seeks a tolerant, inclusive and safe society, marked by respect for the inherent dignity of all of its members, community safety, and the absence of violence.

Its focus is on promoting a sustainable, effective, and humane criminal justice system.