

# Talking about sentences and crime: The views of people on periodic detention

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# Foreword

This report examines the views of a cross section of offenders who were serving sentences of periodic detention in early 2000. It presents views of the criminal justice system from the perspectives of those subject to the system and experiencing first hand one of its sentencing options.

The importance of understanding offenders' attitudes to and experiences of sentences is that it tests assumptions that criminal justice policy makes about the punitive nature of those sentences, and their likely deterrent effect and rehabilitative potential. Offenders' judgements of the relative severity of particular sanctions can be useful in determining sentencing options and for developing a hierarchy of sentences. Sentence compliance, how sentences impact on offenders, and offenders' attitudes to the justice system, are all likely to be influenced by how offenders view the fairness of their sentences and how well the sentences address offenders' circumstances.

At the time of the research, Periodic Detention was a community-based sentence that could be imposed on any offender who was convicted of an offence punishable by imprisonment. It could be imposed for a period not exceeding 12 months. The sentence involved an offender reporting to a periodic detention work centre at least once a week and undertaking supervised community work. It enabled an offender to continue employment or to continue to search for employment. The New Zealand courts generally viewed periodic detention as the most serious of the community-based sentences (and the most serious sentence short of a custodial one), and so most offenders who received periodic detention had previous criminal convictions and the offending for which they received the sentence was likely to be a serious instance of that type of offending.

It was a frequently used sentence with 18,436 offenders receiving periodic detention in 2000. The research undertaken by the Ministry represents the first time in New Zealand that a large number of offenders serving this particular sentence have been asked their views on crime and sentencing. Offenders from five periodic detention centres were asked their views about how severe they thought particular sentences were, what purposes sentences might serve, what were appropriate sentences in particular cases, and whether in their own experience sentences of periodic detention and fines were fair. Their knowledge of the crime rate and some aspects of sentencing practices was also surveyed.

The results reveal that in the view of the detainees, prison sentences are the toughest sentences although a significant minority indicated they would prefer to serve a custodial sentence of three months than receive either a fine of \$1,000 or a sentence of 12 months periodic detention. This minority preference was particularly found in those who had previously spent time in prison. Imprisonment was the sentence considered most likely to have a deterrent effect and was also perceived as having the greatest rehabilitative effect. Detainees said that fines were the sentences that were least likely to stop them from reoffending and were viewed as least likely to rehabilitate.

The majority of those detainees who had received a sentence of a fine in the last 12 months indicated that they had found it difficult to pay a fine, mainly because of their financial circumstances.

Periodic detention was in most cases viewed as a fair sentence, mainly because it was viewed as preferable to imprisonment.

The report was undertaken at a time of major sentencing reform in New Zealand, with the sentencing framework set out in the Criminal Justice Act 1985 replaced by provisions of the Sentencing Act 2002. Significant changes to community-based sentences were enacted, effectively involving a merger of periodic detention with community service in a new sentence called Community Work. The findings in this report, not just in relation to periodic detention, but also in respect of fines and imprisonment, have proved useful in the policy development process leading up to final decisions on the content of the Sentencing Act 2002.

A handwritten signature in black ink, appearing to read 'warren young', written in a cursive style.

Warren Young  
Deputy Secretary for Justice  
Crime Prevention and Criminal Justice Group

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# Executive Summary

This study presents the findings from the first comprehensive New Zealand survey to ask people sentenced to periodic detention their views on sentencing and crime. The research assesses detainees' perceptions of sentencing practice and their knowledge of key facts, such as the level of violent crime, and the number of people offending while on bail. The research also explores offenders' perceptions of the relative severity of a range of sentences and the sentences they have experienced. A total of 387 people sentenced to periodic detention were interviewed during February 2000 to April 2000, with an overall response rate of 69%.

The research was undertaken prior to major sentencing reform in New Zealand, with the sentencing framework as set out in the Criminal Justice Act 1985 replaced by provisions of the Sentencing Act 2002. Significant changes to community-based sentences were enacted, effectively involving a merger of periodic detention with community service in a new sentence called Community Work.

## Characteristics of the sample

- The proportion of men and women in the sample was identical to the total population of men and women on periodic detention in 1999; 88% men and 12% women.
- Forty-five percent of detainees in the sample and 46% of people on periodic detention in 1999 were aged 20-29. The sample was slightly older than the population of all people on periodic detention in 1999.
- Nearly half the detainees who took part in the survey were Māori (48%), 40% were European/Pakeha and 10% were Pacific Peoples. This was very similar to the population of all people on periodic detention in 1999.
- Over two thirds of the sample (70%) had a partner and/or children. Of these, 62% said that the partner and/or children lived with them.
- Over half the detainees were employed, either full time (41%) or part time (14%). About a third (36%) indicated that they were currently unemployed.
- The majority of detainees had previously been sentenced to a fine (84%), driving disqualification (70%) or periodic detention (67%).
- The majority of detainees (83%) had previous convictions for traffic offences. Around half had previous convictions for violent offences (48%), theft (48%) and drug offences (46%).

## **Perception of sentences**

### *Relative sentence severity*

We asked detainees to rank 13 sentences in terms of how tough they would find them. Prison sentences, particularly longer terms of imprisonment were rated as being the toughest of all the sentences. However, we also found that a significant minority of offenders would prefer to serve a short custodial sentence than either a fine or a sentence of periodic detention. A quarter of the sample ranked a \$1,000 fine and a similar proportion ranked 12 months periodic detention as being tougher than a three month prison sentence.

Employment status and past experience of prison was related to detainees' ranking of sentences. Detainees who were unemployed or those who had previously spent time in prison perceived fines as being tougher and prison as less tough than those who were employed or had previously not spent time in prison. They were also considerably more likely to say that they would prefer to go to prison for three months than pay a \$1,000 fine.

The findings show no statistical difference in the ranking of sentence severity between supervision and a \$500 fine, and also between a six months residential community programme and a \$1,000 fine. No sentence was given a similar ranking to prison, but this may be due to the fact that we did not interview people currently serving a term of imprisonment.

### *Purposes of sentences*

Sentencing purposes are the general justifications for the types of sentences that are imposed on offenders. We focussed on two of these in the study, deterrence and rehabilitation. Detainees were asked to consider five sentences in the light of these two purposes: fine of \$500, 12 months supervision, 100 hours of community service, four months periodic detention, and prison for six months.

Six months in prison was perceived as having the greatest deterrent and rehabilitative effect. However, this view was more likely to be held by those detainees who had not previously spent time in prison. In addition, detainees who were employed were more likely than those who were unemployed to say that prison would deter them from future offending and would help them make changes to their lives.

Women were more likely than men to say that six months in prison would stop them from getting into trouble again and women were also more likely to say that prison would help them make changes to their lives. Older detainees (30+) were more likely than younger detainees to perceive a fine, community service, and periodic detention as having a rehabilitative effect.

## **Sentencing practice**

We asked detainees what they thought was the right sentence for people convicted of crimes described in three scenarios: "John" convicted of theft through fraudulent use; "Peter" convicted of male assaults female; and "Paul" convicted of aggravated burglary. Detainees

were given a showcard containing 15 sentences and were able to select up to three sentences from this list.

Two out of five detainees thought “John” should be sentenced to a term of imprisonment and 30% considered he should receive a community-based sentence as the most serious sentence. Where detainees mentioned imprisonment, this was most commonly a term of between one and five years. Reparation or a fine was commonly mentioned in combination with another sentence. Forty-four percent thought “John” should be sentenced to pay reparation and 10% thought a fine should be part of the sentence. A quarter of detainees mentioned reparation as their only sentence option for “John”.

“Peter” convicted of male assaults female was sentenced to a term of imprisonment by over half the sample of detainees (58%) and this was most commonly a term of less than one year. A third selected a community-based sentence for “Peter” as their most serious sentence, but half mentioned a community-based sentence as one of their three options.

The vast majority of detainees (92%) thought “Paul” convicted of aggravated burglary should be sentenced to imprisonment and this was most commonly a term of between one and five years.

## **Knowledge about crime and sentencing**

Detainees were asked a series of questions designed to explore their knowledge of crime-related facts and statistics, including the criminal justice system’s response to a person convicted of rape. Results show widespread misinformation about crime and sentencing. The majority of detainees thought that the crime rate was increasing (Police statistics, however, show that the crime rate has actually decreased in the last few years), and the majority overestimated the proportion of crime which involves violence, and the proportion of people who get caught for offending while on bail.

Detainees also tended to underestimate lengths of sentences. Only a quarter were aware of the statutory penalty for rape and over half the sample underestimated this. About two in five underestimated the average sentence and actual time spent in prison for rape.

## **Detainees’ experience of fines**

Forty-one percent had been fined in the previous year and 84% had been fined at some stage in the past. Younger detainees and those without partners or children were more likely to have received a fine. The fine was less than \$1000 for 76% of the detainees. Most of the detainees had used their own money to pay the fine. However, 8% of detainees who had been fined said that someone else had helped them with at least part of the money to pay the fine.

The majority of detainees indicated some degree of difficulty in paying the fine, although less than half said that they had lots of difficulty. Half of the detainees said this difficulty existed because they were unemployed or on a benefit, 39% because it was hard to make ends meet, and 36% because of family responsibilities or other commitments.

## **Fairness of sentences**

Three-quarters of the detainees thought that their sentence of periodic detention was fair for the crime they had committed, and this was most commonly because it was seen to be a better alternative than prison or another sentence. Men were more likely than women to report that their sentence of periodic detention was fair. A fine was seen as the fairest alternative to periodic detention followed by a shorter time on periodic detention and then community service.

Detainees who had been fined in the previous 12 months were also asked whether their sentence was a fair one for the crime they had committed. Half said that it was fair, and this was most commonly because it was punishment for the crime they had committed. Alternative sentences which they believed would have been fairer included a warning, community service, periodic detention, and a fine for a lesser amount.

When asked to explain why their sentence of periodic detention or fine was unfair, detainees most often mentioned that it was because the sentence was too punitive. In particular they were concerned about issues of sentencing disparity. Some offenders were considered to be receiving lighter penalties for the same offence.

# 1 Introduction

The general public's attitudes and knowledge about crime and sentencing have long been studied by social science researchers. However, despite the fact that people who are convicted of crimes have direct experience of the criminal justice system, and particularly of sentencing, there continues to be little research either in New Zealand or overseas, which examines their attitudes to crime and sentencing. This report presents the findings from a survey of people sentenced to periodic detention in New Zealand. It is the first comprehensive study in this country to ask offenders for their views on crime and sentencing, including their knowledge of crime and criminal justice statistics.

Why is it important to find out what people who have been convicted of a crime think and know about crime and sentencing? First, Furnham and Alison (1994) note that it is inadequate to study the implementation of punishment without some understanding of offenders' attitudes towards it. It has been suggested that 'conventional' perceptions of the severity of sentences may in fact be very different to that of offenders' perceptions. Whether sentences deter depends in part on offenders' perceptions of the severity of the sentence (Petersilia, 1990). For example, there is a general perception that prison is more dreaded than a community-based sentence or monetary penalty, but is this actually the case? Indermaur (1992) states that 'courts continue to sentence on the basis of uninformed 'guesses' as to the motivation and likely future behaviour of offenders' (p.3).

Secondly, Robert and Stalans (1997) suggest that the effectiveness of the criminal justice system is reliant on people's attitudes towards and knowledge of that system. For example, sentences can only deter people from committing crimes if they are in the first place aware of what these penalties are. In addition, it is important to consider their perceptions of the fairness of sentences for the crimes committed as these perceptions are likely to have a significant impact on sentence compliance.

Finally, there are general assumptions that offenders' views and knowledge of crime and sentencing differ from those of the general public. But is this in fact the case? Are people who have committed crimes any less punitive for example, than the general public?

The sentencing framework as set out in the Criminal Justice Act 1985 was being reviewed at the time of the research. These research findings have assisted that review and the development of proposed legislative reform<sup>1</sup>. It is also hoped that the information in this report will be useful to judges, probation officers and others who work within the criminal justice system.

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<sup>1</sup> The sentencing framework as set out in the Criminal Justice Act 1985 was replaced by provisions of the Sentencing Act which came into force on 30 June 2002.

## 1.1 Sentencing policy in New Zealand<sup>2</sup>

There are a number of rationales, goals and principles of sentencing which provide the justifications for imposing legal sanctions, point to the desired effects of particular sentences, and provide guidance as to how to arrive at a principled determination of a sentence. The most often cited rationales and goals of sentencing are retribution; denunciation; deterrence; incapacitation; rehabilitation; and restitution.

The provision of a sentencing framework also assists with decisions as to the specific type and amount of sentence on an offence-by-offence basis. New Zealand's parliamentary statutes provide sentencing direction in two ways – firstly by setting out maximum penalties in the same statutes which establish the offences and secondly through sentencing guidance.

Penalties are usually expressed in terms of finite periods of imprisonment and/or fines. The Criminal Justice Act 1985 sets out a number of other sentences and orders which the courts may impose as an alternative to imprisonment for any offence which is punishable by imprisonment. Community-based sentences (periodic detention, community service, community programme, and supervision) are outlined in Part III of the Criminal Justice Act 1985. Periodic detention involves an offender reporting to a work centre for at least one day a week for up to 10 hours and can be imposed for a period not exceeding 12 months. Community service involves an offender doing between 20 and 200 hours of unpaid work for a community group. Supervision can be imposed on an offender for a period of between six months and two years. Such an offender is under the supervision of a probation officer and must report to the probation officer, as and when required to do so, and may also be expected to undertake various programmes. Community programme involves an offender being placed in the care of an appropriate group or individual, and participating in a programme for a period not exceeding 12 months or six months if it is a residential programme.

Other sentences or orders include discharge, deferment, reparation and suspended prison sentences. Suspended prison sentences were introduced by the Criminal Justice Amendment Act 1993. Where a judge sentences an offender to a term of imprisonment of between six months and two years, he or she may make an order suspending the sentence for a period of up to two years.

Parliament also gives guidance to the courts through sentencing guidance in legislation. Currently there are sentencing provisions in the Criminal Justice Act 1985, which are principally intended to guide judges towards the use of non-custodial sanctions in cases not involving violence, and to protect the public against violent offending through imprisonment of offenders using serious violence and repeat violent offenders. New Zealand's present sentencing structure confers extensive discretion on the sentencing judge, both in terms of the length of sentence available and in the choice of alternative dispositions.

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<sup>2</sup> The material in this section has been taken from the Ministry of Justice report *Sentencing Policy and Guidance: A Discussion Paper*.

## 1.2 Previous research

Research to date on offenders' attitudes to crime and sentencing has generally fallen into one of three areas; perceptions of the relative severity of sentences; experiences of specific sentences; and thirdly, general attitudes towards sentences and the criminal justice system. Much of the overseas research has tended to focus on offenders' views of the relative severity of various sentences.

### *Severity of sentences*

The importance of understanding offenders' views on sentencing became associated in the 1980s with a determined effort to measure the deterrent effects of sentences (Indermaur, 1994). Various methodologies and sample populations have been used to explore offenders' perceptions of the severity of sentences, with the most common sample being prison inmates. Some of the research has concentrated on intermediate sentences, like intensive supervision, with the aim of exploring whether these less expensive sentences can also be perceived by offenders as having punitive qualities. If this can be demonstrated, then the public may accept that such sentences are appropriate and consistent with the need to hold people accountable for their crimes.

Studies exploring offenders' perceptions of the relative severity of sentences have found that some sentences (fines, intensive supervision, probation) can be perceived by some offenders as being equally or more severe, than terms of imprisonment (Crouch, 1993; Petersilia and Deschenes, 1994a & 1994b; Spelman, 1995). Spelman (1995) found that some intermediate sentences equated in severity to a one-year jail term, and also that nearly half of the study sample believed that a \$5,000 fine was more severe than the lightest prison sentence (three months in a county jail). These studies have also generally shown that preference for prison was most likely among offenders who were African American, older, unmarried and widely exposed to crime and institutional corrections. Spelman (1995) argues that a continuum of sanctions exists and that alternatives to prison can be more severe in the mind of some offenders than a short prison term.

Extent of involvement in the criminal justice system, not surprisingly, also appears to have an impact on offenders' perceptions of punishment and severity of sentences. In a study of 157 adults who had been arrested, Apospori, Alpert and Paternoster (1992) found that those who had committed offences in the past, and who had a prior history of arrest and convictions, had lower perceptions of the risk of punishment (being arrested and convicted). A three-month follow-up study of these adults (Apospori and Alpert, 1993) showed that offenders who received severe punishments (particularly prison) were more likely to rate sanctions more severely at the three-month follow-up period than they had immediately following their arrest. No significant changes were found among respondents who received lighter sentences. The authors suggest that these findings show that more severe sentences are more successful than less severe ones in achieving the first goal of deterrence, raising offenders' perceptions of the severity of formal legal sanctions.

### ***Experiences of specific sentences***

A number of studies have examined offenders' experiences of specific sentences. Leibrich, Galaway and Underhill (1984) conducted a study of the sentence of community service<sup>3</sup> in New Zealand, interviewing probation officers, offenders and judges. A total of 68 people sentenced to community service were interviewed and were asked a number of questions about the sentencing process, including their expected sentence, knowledge of community service and whether it was the right order for them. In a study on desistance from crime among people who had been sentenced to supervision, Leibrich (1993) found that four-fifths of the 50 people she interviewed thought their sentence was a fair one. Reasons given included that it was fair because it was deserved or that they had expected to go to prison. Most who said it was not fair had been given a heavier sentence than the others involved in the crime. Allen and Treger (1990) interviewed 73 probationers in the United States following the termination of their community service. More than two-thirds of the probationers perceived their community service orders as an opportunity to give something back to the society they had wronged. Nearly half also perceived it as a punishment and a third as a form of rehabilitation. Kolstad (1996) found that two-thirds of a small sample of inmates did not believe that imprisonment would have any deterrent effect.

Allen and Treger (1994) conducted one of the few studies we have managed to locate that examined offenders' attitudes to monetary penalties. They interviewed 82 probationers who had received a fine or restitution. Their study followed a move to increase fines as an alternative to prison and to increase the use of restitution for victims of crime. About half the sample reported that the fine or restitution did not present any specific hardship.

Many of the studies have involved small samples, but an exception to this was a large-scale study of 1,213 British offenders sentenced to probation<sup>4</sup> (Mair & May 1997). The study examined their backgrounds, their experiences on probation, and their perceptions of the extent to which this sentence helped them to tackle their problems and stop offending. The probation service was generally viewed favourably by most of those it supervises. A majority of the sample thought that probation had helped them understand their offending and would help them stay out of trouble.

### ***General attitudes to sentences***

Several studies have investigated offenders' attitudes to crime and sentencing more generally. McGinnis and Carlson (1982) investigated offenders' perceptions of the fairness of their sentences. One hundred prison inmates were interviewed and asked to categorise the fairness of their sentence on a five-point scale from 'very lenient' to 'very severe'. The majority of participants considered that their sentences were fair. Furnham and Alison (1994) investigated attitudes to punishment, theories of crime and juror bias among three groups – police, offenders and the general public. Forty-nine offenders, 43 police and 58 members of the public were asked their choice of sentences for 32 offences. Police tended to give harsher penalties than either offenders or the public but there was broad agreement between all three groups on half the crimes.

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<sup>3</sup> Community service requires the offender to undertake work for a specified number of hours (not more than 200) with a community organisation.

<sup>4</sup> The probation order in Britain is similar to the sentence of supervision in New Zealand, where an offender is required to report on a regular basis to the probation officer and may also have to attend a programme.

Indermaur (1992) interviewed 53 Australian offenders with the purpose of exploring their perceptions of the meaning and effectiveness of sentences they had experienced, as well as their perceptions of sentences in general. These findings were compared with the results of previous research on public and judicial perceptions of sentencing (Indermaur, 1990). Results showed that the public tended to be more punitive than judges or offenders, particularly for crimes of violence.

Indigenous people are over-represented in the offender population, yet few studies have attempted to examine their attitudes specifically. An exception to this is a study by Morse and Lock (1988) which presents the views of Native Canadian offenders concerning the sentencing process. Participants were asked their views on each of the major phases of the justice system they encountered, ranging from policing, through to court sentencing and release procedures. Over half (56%) of the respondents thought their sentences were too long and 54% thought that Native Canadians get harsher sentences than Non-Native Canadians.

### **1.3 Outline of the report**

Chapter 2 of this report outlines the methodology used, and Chapter 3 describes the characteristics of the sample. Subsequent chapters present the findings of the survey. Chapter 4 examines periodic detainees' perceptions of sentences. Detainees were asked to rank a number of sentences according to how tough they would find them, and were also asked whether specific sentences would deter them from future offending, or help them make changes to their lives. Chapter 5 presents detainees' responses to questions asking them to sentence people convicted of three crimes. Chapter 6 reports the findings on detainees' knowledge of crime statistics and other facts about the criminal justice system. Chapter 7 examines detainees' experiences of sentences and Chapter 8 their perception of the fairness of sentences. Chapter 9 reports some general comments made by detainees at the end of the survey. Finally, Chapter 10 presents the overall conclusions of the report.



# 2 Methodology

## 2.1 Introduction

A sample of 387 people sentenced to periodic detention in New Zealand were interviewed during February 2000 to April 2000. Five periodic detention centres took part in the main study: Invercargill, Christchurch, Rotorua, Manurewa and Waitakere.

Periodic detention may be imposed on any offender over the age of 15 who is convicted of an offence punishable by imprisonment. It can be imposed for a maximum term of 12 months. The sentence requires the offender to attend a specific periodic detention work centre at least once a week, and undertake community work. The detainee is in the legal custody of the warden of the centre during that period.<sup>5</sup>

An Advisory Group was set up to inform the development of the proposal and related issues that arose during the course of the project. The group included Ministry policy staff and the Ministry's Māori and Pacific Peoples' Advisers. Representatives from the Department for Courts, the Department of Corrections and Community Probation Service were also included.

## 2.2 Research objectives

The overall aim of the present survey was to assess New Zealand offenders' attitudes towards and knowledge about crime and sentencing. Specifically, the survey objectives were to:

1. Assess offenders' perceptions of:
  - a) sentencing practice
  - b) purposes of sentencing
  - c) appropriateness of sentencing
  - d) relative sentence severity
  - e) sentences they have experienced
  - f) fines, in comparison with other sentences
2. Assess offenders' knowledge about crime and sentencing

## 2.3 Study population

We wanted to select a sample of offenders who had experienced a range of sentences. For practical purposes, however, we chose to select the sample from one offender group – those

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<sup>5</sup> Criminal Justice Act 1985 sections 37-45.

sentenced to periodic detention. The following factors were taken into consideration in selecting this sample population: the range of sentences the offender was likely to have experienced; the size of the offender populations; and the likely response rate from a particular group of offenders.

We chose early on not to sample offenders serving a custodial sentence. A custodial sentence has a major impact on the life circumstances of the offender in ways that other sentences do not. It is likely that the nature of inmates' response to the interview may well be influenced by this impact.

Offenders sentenced to periodic detention rather than another community-based sentence were chosen as the sample population for the following reasons:

- Offenders sentenced to periodic detention have more previous convictions than offenders on other community-based sentences (particularly community service and supervision) and are therefore more likely to have experienced a wider range of sentences.
- Periodic detention is the most frequently-imposed community-based sentence; 21% of convicted cases in 1999 resulted in a sentence of periodic detention compared with 8% of cases resulting in community service and 5% in supervision for the same year (Spier, 2000).
- We considered that the response rate for offenders on periodic detention was likely to be higher than that for other offenders. Offenders on periodic detention are under the supervision of periodic detention staff for up to 10 hours once or twice a week and participation in the study would be within this time. In addition, with periodic detention, researchers had access to a large group of offenders at the same time, in the same place.
- A similar study involving a sample of offenders on supervision was proposed by the Department of Justice in 1995. This study was unsuccessful however, because of difficulties experienced in obtaining a sufficient sample of offenders on this particular sentence.

Chapter 3 of the report sets out information on how representative the sample was compared to the population of people on periodic detention. However, the sample is not representative of all offenders and care must be taken when generalising these research results to the offender population as a whole.

## **2.4 Cultural safety considerations**

The project recognised the importance of researchers being conscious of the cultural values of the people they were interviewing, and being aware of the impact that these values might have on the interview process. Guidance was sought from the Ministry of Justice's Māori and Pacific Peoples' Focus Groups in the development of the project.

## Interview team and training

The cultural background of the interview team broadly matched that of the research population. Three Māori, two Pakeha and one Samoan interviewer conducted the majority of the interviews. Two Pakeha interviewers joined this group for the larger centres.

Apart from one Māori and Samoan interviewer, all of the other team members were employed by the Ministry of Justice. These two interviewers were contracted to the team to assist with the interviewing of the Māori and Pacific detainees, and to help overall with the interviewing. These contract interviewers were selected because of their standing in their local communities.

## Introduction process

As a formal acknowledgement, the introduction of the research team to the detainees began with a mihi<sup>6</sup> by one of the Māori interviewers. This took place when the detainees were gathered together at the beginning of each day. The team leader then explained more about the research, and reinforced to the detainees that we had interviewers from a range of cultural backgrounds who could speak Māori and a number of Pacific languages. Other members of the interview team then also introduced themselves to the detainees. Detainees were asked whether they wished to be interviewed by someone of their own cultural group where possible.

## Translated documents

The information sheets, which were handed out two weeks before the interviewing, had been translated into te reo Māori<sup>7</sup> and Samoan. In addition, translated versions of the questionnaire were available, should any of the detainees want to conduct the interview in te reo Māori or Samoan.

## Māori support person

The Ministry's Māori Focus Group suggested that a Māori support person should be available for the detainees when interviewing at each of the sites.

The support person's role was to be available to sit with the detainee during the interview and offer support and reassurance if this was requested. This included for example, helping a detainee sort through the cards for Question 1. The support person was also required, if requested, to help in the explanation of questions, verify that what the interviewer was writing down was an accurate portrayal of what the detainee was saying, and to be available for any help or advice which the detainee might require after the interview.

In two instances, the support person was a member of the Māori focus group, had past experience with offenders and was well known in their community. In other areas we were given the names of people who might be appropriate to provide this type of support to the detainees. Before the interviewing began, the team leader made contact with these people, explained what their role was likely to be, and found out whether they were interested in

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<sup>6</sup> Mihi = greeting/acknowledgement (H M Ngata, 1993, *English-Māori Dictionary*. Learning Media, Wellington).

<sup>7</sup> Te reo Māori = the Māori language (H M Ngata, 1993, *English-Māori Dictionary*. Learning Media, Wellington).

becoming involved. Once they had agreed, information sheets and questionnaires were sent to the support people prior to the interviews, so that they could familiarise themselves with the material. The support people were reimbursed for their time and for any expenses they incurred.

The extent to which the support people were actually called upon by the detainees or the interviewers varied from centre to centre. While they provided direct support to only a small number of detainees in each of the sites, their presence was appreciated by prospective participants and probably encouraged their participation. The members of the interview team also appreciated their involvement, and found them to be a valuable source of support and encouragement.

## **2.5 Ethical issues**

Considerable time was spent ensuring that the project was conducted in accordance with ethical principles, and in the development of ways which would ensure that these ethical principles were put into practice.

The research proposal was subject to review by the Justice Sector Ethical Review Group. This group provided useful comment on a range of issues and a number of changes were made to the informed consent sheet as a result of this review.

Ensuring that the detainees were able to give informed consent before agreeing to participate, and development of safety protocols were two examples of how these principles were put into practice.

### **Informed consent**

Informed consent was obtained from each of the detainees before they were asked whether they agreed to being interviewed. It was explained that their participation was voluntary, they could refuse to answer any of the questions during the interview, and that they could stop the interview at any time. They were also told what their information would be used for, that the papers relating to this project would be locked in secure cabinets, and that nobody would be able to recognise any of their answers in the finished report.

Although each detainee was told that their information would be confidential to the research team, it was also carefully explained what process the interviewer would follow if the interviewer was told something which made them think somebody was at risk of serious harm. In these circumstances, the principle of confidentiality would be suspended. Once these issues had been explained to the detainees, and they had been given an opportunity to ask questions, the detainees were asked whether they still wished to proceed with the interview. If they were willing to be interviewed they were asked to sign the informed consent sheet (see Appendix 1).

At the conclusion of the interview, detainees were asked if they were happy for their actual words to be used in the final report. Some did not agree to this. We have therefore only included comments from detainees in the report where this was consented to. The detainees were also offered the opportunity to have a summary of the findings sent to them, or they were told that they would be available at the periodic detention centre.

## Safety issues

The safety protocols developed for this project focussed on ensuring the safety of the detainees as research participants, other members of the public, and members of the research team (see Appendix 4).

The protocols described procedures which the interviewers should follow if it became clear during an interview that someone's safety was seriously at risk. The protocols related to the safety of any of the detainees, another adult or child, or a member of the interview team. The training provided to the interview team included instruction as to when and how the protocols should be used.

Some practical initiatives were also implemented during fieldwork to enhance the safety of all the individuals involved in the project. For instance, interviewers were advised not to completely close their doors during interviews. In addition, a member of the research team (generally the team leader) was on hand to ensure the smooth running of the interview process, and also frequently checked on the safety of interviewers. The interview team also usually met as a group at least once during the days on which they were interviewing. This provided the opportunity for anybody who had any concerns to discuss them with the group, rather than feel they had to face them alone.

Because the interview process could raise issues which detainees might wish to discuss further, each periodic detention centre was asked to provide us with a list of community and support organisations in their area. These included organisations like budget advisory service, citizens advice bureau, and alcohol and drug services. These were available for the interviewers to hand to the detainees if a detainee wished to discuss matters other than those contained in the questionnaire.

## 2.6 Selection of sites

Five periodic detention centres were selected to take part in the study. The following criteria were taken into account in the selection of these sites:

- Spread of centres around the country (two centres were in the South Island); metropolitan/rural locations
- Proportions of Pakeha/Māori/Pacific Peoples on periodic detention
- Size of caseload list and number of reporting days other than Saturday
- Facilities available for interviewing offenders.

Regional conviction statistics for offenders sentenced to periodic detention and information provided by Community Probation Service were also used to help select periodic detention centres. Once a shortlist of seven centres had been compiled, each of the sites was visited to assess the suitability of the centre based on the above criteria. The centres selected to participate in the project were Invercargill, Christchurch, Rotorua, Manurewa and Waitakere.

## 2.7 Preparation for fieldwork

### Initial site visits

Visits were made to each of the seven shortlisted sites. The purpose of this initial visit was to speak to the community probation and periodic detention staff about the project, get some indication as to how they felt about participating, and the extent to which their rooms and offices might be suitable for interviewing. Following this visit, five centres were chosen to participate in the study.

Liaison people were also identified during these visits. This liaison person would be the main point of contact for the detainees during the study, and would also be the person we would contact about practical issues, such as setting up rooms. The liaison person was a probation officer at the centre, or the periodic detention manager.

### Follow up visits

Approximately three weeks before the interviewing was scheduled to begin, another visit was made to each of the five centres. The purpose of this second visit was to meet again with the liaison person for the project and to discuss logistical matters. During this visit, the liaison person was also given information sheets, which were handed out to the detainees on their reporting days two weeks prior to the actual interviewing taking place. The information sheet described the purpose of the research and the dates for interviewing and stressed the voluntary nature of the research. In addition, the information sheets included an 0800 number for detainees to ring if they had any questions about the research (see Appendix 5 for a copy of the information sheet).

## 2.8 Interview team and training

A team of six interviewers were involved throughout the project. This was increased to eight on the days when larger numbers of detainees were expected, to ensure that it was possible to interview all detainees who wished to participate, and that each workgang did not have to wait round for too long. The interview team was not matched on the gender of the study population<sup>8</sup>, but at least half of the interviewers were male. One member of the team (generally the team leader) was always available to discuss any concerns from staff, detainees or interviewers.

All members of the interview team had previous interviewing experience. Before interviewing commenced, the contracted interviewers signed a deed of confidentiality and a declaration as to their criminal histories. This provided community probation administrators with the security assurance needed for the contractors to participate in the project.

A briefing and training session for all interviewers was held at the Ministry of Justice in November 1999. The training mainly focused on procedural issues to do with the administration and content of the questionnaire. The Principal Research Adviser of the

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<sup>8</sup> In a study of men's attitudes towards abuse against women, Leibrich, Paulin and Ransom (1995) found that the interviewer being male or female had virtually no effect on the survey responses of men.

Ministry of Justice briefed interviewers on the principles of interviewing and interviewers had the opportunity to practise using the questionnaire. The session also stressed the importance of working in an ethical manner, and focused attention on the safety protocols which had been developed for this project.

In addition to the formal training session, interviewers were supervised from time to time during the pilot study and the main project. Briefings were also held prior to the start of interviewing at each centre. This supervision and briefing ensured that all the interviewers were paying adequate attention both to the administration of the questionnaire itself, and to ethical issues. In addition, newer interviewers sat in on several interviews before they began to interview alone.

## **2.9 Pilot study**

A pilot study was conducted at the Porirua periodic detention centre in December 1999 to test the research design, questionnaire and response rate. Six out of the eight interviewers, including the Māori and Samoan contract interviewers, were involved in the pilot study. Fifty-five interviews with detainees were conducted with a response rate of 89%. Subsequent to the pilot a few minor changes were made to the content of the questionnaire.

## **2.10 Collection of data**

Interviewing took place on detainees' reporting days between 25 February and 1 April 2000. In four centres, the interviews were conducted on a Friday and a Saturday and in a fifth centre interviewing took place over three days, Thursday, Friday and Saturday. Interviews were scheduled for a Saturday in all of the centres as this was generally the day of the week which had the highest muster. We had also been informed during our initial visits that people who reported for periodic detention on a Saturday were likely to have different characteristics (eg they were more likely to be employed or undertaking training) from those who reported during the week. For this reason, and because we wanted to interview as many people as we possibly could at each centre, we also conducted interviews on a weekday as well as a Saturday.

There were many practical issues which related specifically to the interviewing process. For instance, periodic detention staff were required to consider how they would plan their activities for the day so that the interview team had access to those detainees who wanted to participate. Other logistical matters included arranging for chairs and desks to be put in empty rooms, deciding whether rooms would be large enough for more than one interview at a time, and managing the flow of detainees who wanted to be interviewed so that they were not kept waiting longer than necessary.

Interviews primarily took place in Community Probation Offices, and in one instance on a local marae. The environment in which the interviews were conducted was frequently not ideal. For instance, it was sometimes necessary to have several interviews going on in the same room at once. We tried to limit this by only using reasonably large rooms so that we could seat people as far apart as possible, therefore lessening the chance of the detainees hearing what others were saying. However, where possible we only used rooms where the interviews could be conducted in private.

The process of interviewing differed from centre to centre. However, in general each gang of detainees (comprising up to 10 people) was interviewed either before they went out to their work sites or when they were brought back to the centre at various stages throughout the day. Each gang of detainees was kept together even if some detainees did not wish to participate in the study. These detainees waited while those participating completed their interviews. A work party supervisor was with the gang at all times.

In four of the centres, detainees gathered together as a group at the beginning of the day for a roll call. The research team took this opportunity to introduce themselves to the detainees and talk about the research. This appeared to make a significant difference to the detainees' willingness to participate in the study. We did not have the opportunity to introduce ourselves in the fifth work centre as detainees did not gather for a roll call and this may explain why the response rate was much lower at this centre.

The interviews were about 30 minutes on average, ranging in length from 15 minutes to just over an hour for the longest interview.

## **2.11 Data collection instruments**

The questionnaire was designed around the research objectives and developed in consultation with policy staff. Previous research studies, both within New Zealand and overseas, were also reviewed during the questionnaire development phase.

The questionnaire was designed for a face-to-face interview situation. The questionnaire contained a combination of closed-ended questions with pre-determined responses and a small number of open-ended questions (see Appendix 2 and 3 for a copy of the questionnaire and showcards). We had some concerns over the level of literacy among detainees and so we designed the questionnaire so that the detainees would be required to do as little reading as possible. Showcards were used but these were always read out to detainees, and interviewers had been trained to be aware of situations where the detainee needed extra assistance. This was particularly the case with the first question which asked detainees to rank 13 sentences. In some cases where the detainees had difficulty with reading or understanding the questions, they requested that the Māori support person sit in with them during the interview (see section 2.4 for further description of this person's role).

The questionnaire was pre-tested at a periodic detention centre. The purpose of pre-testing the questionnaire was to refine and test the flow of questions, and the use of the showcards. In particular, we wanted to ensure that the questions were worded in appropriate language and could be easily understood. We also wanted to get an indication of the length of the questionnaire. The detainees who took part in the pre-test were forthcoming with their comments about the questionnaire and suggested ways in which both the content and layout

could be improved. Some changes were made as a result of this pre-testing and a few questions were deleted to reduce the length of the questionnaire.

The questionnaire was divided into five sections: (1) perceptions of sentences and sentencing practice; (2) knowledge of crime and sentencing; (3) fines; (4) periodic detention and other sentences they had experienced; and (5) demographic information.

Not all material collected as part of the survey is presented in this report. This material relates to new questions derived from overseas research at the time the survey was conducted. An independent expert reviewer has subsequently pointed out a flaw with some aspects of the development of these questions which relate to the severity of the sentence (including the substitution of a fine) likely to have been imposed for some crimes. For this reason responses relating to this part of the questionnaire are not presented in this report.

## 2.12 Validity

Validity refers to the extent to which the results accurately reflect the reality of the respondents' views and perceptions. Inaccuracies in a survey of this kind can occur because respondents may have forgotten some details of their experience, they may not have understood some of the questions, or some may have deliberately given false or misleading information. There is often in particular, a readiness to distrust offenders' opinions.

We took a number of steps to ensure the validity of the information we gathered. The questionnaire was pre-tested and piloted on a similar group sentenced to periodic detention to ensure that the language was both appropriate and easy to understand. Respondents were also offered the option of being interviewed by someone of their own ethnic background. In addition, we made it clear to the detainees that the interviewers had no influence over the serving of their sentence. We will never know however, whether participants gave us their honest opinions, but this is probably as true in a survey of the general public as it is in a survey of the offender population.

## 2.13 Analysis

Responses to the closed-ended questions were loaded into an Excel spreadsheet, and frequency tables and cross tabulations were produced using the SAS® system<sup>9</sup>. Ten percent of all questionnaire responses were verified to ensure that the data had been entered correctly.

Differences in response according to socio-demographic variables (sex, age, dependants, ethnicity, and employment status) and criminal history variables (past sentences, and previous convictions) were tested for statistical significance. We decided to use the 5% level as the threshold for statistical significance. This means that whenever a difference is said to be statistically significant, the probability that the result is due to chance is less than 5 in 100. Most of the findings that are reported in the body of the text, are statistically significant. In some cases, findings which are not significant, are reported, because they approximate significance and warrant further investigation.

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<sup>9</sup> SAS is a registered trademark of SAS Institute Inc., Cary, North Carolina, USA.

The sample was not sufficiently large to undertake significance tests where the variable had more than two categories; this was the case with age, ethnicity and employment status. Therefore categories were collapsed into dichotomous variables to ensure sufficient sample size. In the case of age, the categories were: 17 to 29 years and 30 years and over. The ethnicity variable was collapsed into Māori and non-Māori (which included NZ European/Pakeha, Pacific Peoples and 'other'). The two employment status categories were employed (full-time employed and part-time employed) and unemployed (unemployed, voluntary worker, sickness beneficiary and student).

A package for the analysis of qualitative data, NUD\*IST<sup>10</sup>, was used to analyse the responses to the open-ended questions. The interviewers wrote responses to each of the open-ended questions by hand; they were not taped and transcribed. While interviewers attempted to record the detainees' actual words, the examples of responses given throughout the report cannot be considered to be direct quotes.

## 2.14 Response rate

People sentenced to a term of imprisonment have been the focus of much of the related research to date. This is perhaps not surprising given that inmates are often the most simple to access for research purposes. Research with inmates has generally shown high response rates of around 80% or higher, whereas studies of offenders sentenced to community-based sentences have generally not succeeded in obtaining such high response rates. However, people sentenced to a term of imprisonment represent the more severe end of the offending scale and are not necessarily representative of the population of people who offend.

Indermaur (1992) notes that obtaining a large and representative sample of offenders is a major challenge for conducting research in this area. He suggests that the only suitable approach would be to ensure that interviews with offenders become 'routine', that is, part of their sentence, rather than depending on offender initiative. However, it is important to make sure that this does not compromise the voluntary nature of the research, and that offenders realise that their choice to participate will not affect their sentence.

We took a number of steps to encourage a high response rate among detainees. Detainees were handed information sheets about the research two weeks before interviewing. The information sheets were available in Māori, Samoan and English. In four out of the five centres we spent time introducing ourselves as a research team at the beginning of each day of interviewing. We believe that these initiatives contributed to the achievement of a good response rate.

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<sup>10</sup> NUD\*IST is an acronym for Non-numerical Unstructured Data\*Indexing Searching Theorising.

# 3 Characteristics of the sample

## 3.1 Introduction

This section describes the response rate and contains information on the demographic characteristics of the sample, such as gender and ethnicity, dependants, employment status and criminal history.

To determine how representative the sample was compared to the population of people on periodic detention, data from the Case Monitoring Subsystem of the Law Enforcement System was analysed for all periodic detention cases in 1999. Information on gender, age and ethnicity is presented below and compared with our sample. The proportions of European/Pakeha, Māori and Pacific Peoples on periodic detention were a significant consideration in the selection of the periodic detention centres to take part in the study, and this information is provided by region.

## 3.2 Response rate

A total of 387 people on periodic detention participated in the survey. The response rate has been derived from those who reported on the days we were interviewing. Table 3.1 shows that the response rate varied widely from centre to centre, with an overall response rate of 69%. Manurewa had the highest response rate at 87% and Christchurch the lowest at 45%.

**Table 3.1 Response rate by periodic detention centre**

	Number reporting for PD on interviewing days	Number who participated in survey	Response rate
Waitakere	87	67	77%
Manurewa	102	89	87%
Rotorua	101	79	78%
Christchurch	159	71	45%
Invercargill	109	81	74%
Total	558	387	69%

A response rate of 69% compares very favourably with other surveys of offender populations. A survey of inmates in two New Zealand prisons (Waldegrave, 1999) obtained response rates of 60% and 68%. Leibrich, Galaway and Underhill (1984) achieved a response rate of 47% in their survey of people sentenced to community service, and Mair and May (1997) a response rate of 61% in their study of people sentenced to probation. Babbie (1986) suggests that a 60% response rate is good and a 70% response rate is very good.

### 3.3 Demographic characteristics

#### Gender

Table 3.2 shows that the proportion of men and women in the sample was identical to the total population of men and women on periodic detention in 1999; 88% men and 12% women.

**Table 3.2 Proportion of men and women on periodic detention during 1999 and in the sample**

	People on PD during 1999		Survey sample	
	N	%	N	%
Men	18,134	88	338	88
Women	2,413	12	47	12
Total	20,557	100	385*	100

Note: In this and subsequent tables percentages may not add to exactly 100 due to rounding.

\*Sex was not recorded for two people.

#### Age

Table 3.3 shows that detainees were most frequently aged 20 to 29 years; 45% of detainees in the sample and 46% of people on periodic detention in 1999 were classified in this age group. A third of the sample were aged 30-39 years which was slightly higher than the proportion for 1999 as a whole (25%).

**Table 3.3 Age group of people on periodic detention during 1999 and in the sample**

Age group	People on PD during 1999		Survey sample	
	N	%	N	%
17 years	836	4	4	1
18-19 years	2,713	13	44	11
20-29 years	9,447	46	173	45
30-39 years	5,238	25	127	33
40-59 years	1,826	9	30	8
50-59 years	390	2	8	2
60-69 years	60	x	0	0
Total	20,557	100	386*	100

x Denotes percentage less than 0.5.

\*Age was not recorded for one person.

#### Ethnicity

Detainees were asked to indicate their ethnic group using the question on ethnicity asked in the 1996 census. They were able, from a list, to indicate as many ethnic groups as they wished to show which ethnic group or groups they belonged to. Where multiple ethnicities

were given, the method of classification used by Statistics NZ<sup>11</sup> was used. The Case Monitoring data does not allow for multiple responses for ethnicity, so this may result in some differences in the ethnic breakdown of the sample and the total population of people on periodic detention.

Nearly half the detainees who took part in the survey were Māori (48%), 40% were European/Pakeha and 10% were Pacific Peoples. This was very similar to the population of all people on periodic detention in 1999.

**Table 3.4 Ethnic breakdown of people on periodic detention during 1999 and in the sample, by region**

	Persons on PD during 1999				Survey sample*			
	Māori	European	Pacific Peoples	Other	Māori	European	Pacific Peoples	Other
Manurewa	58%	20%	16%	1%	67%	14%	19%	0%
Waitakere	39%	39%	16%	2%	37%	40%	21%	3%
Rotorua	79%	14%	3%	0%	79%	17%	4%	0%
Christchurch	22%	67%	3%	2%	25%	70%	0%	4%
Invercargill	31%	63%	4%	0%	28%	66%	6%	0%
Total	47%	39%	8%	1%	48%	40%	10%	1%

\*Ethnicity was not recorded for three people.

A higher proportion of women than men, both in the sample and in the total population of people on periodic detention, were Māori. Two-thirds of the women in the sample were Māori compared to 46% of men. Men were more likely than women to be European/Pakeha or Pacific Peoples. Forty-one percent of men in the sample were European/Pakeha compared to 32% of women, and 11% of men were Pacific Peoples compared to 2% of women.

### Partners and children

Detainees were asked if they had a partner and/or children. Over two-thirds (270, 70%) answered positively to this question saying that they did have a partner and/or children and 30% (116) said that they did not. One person refused to answer this question. Those detainees who indicated that they had a partner and/or children were then asked ‘do they usually live with you?’. Of the 270 detainees who had partners and/or children 62% (167) said that the partners or children did live with them and 38% (103) said that they did not. A higher proportion of women than men had partners or children.

<sup>11</sup> People who specified more than one ethnic group were placed in the category that is highest in the prioritised list. The order used is: Māori, Pacific Peoples, Other, European/Pakeha.

## Employment status

Over half the detainees were employed, either full-time (41%) or part-time (14%). About a third (36%) indicated that they were currently unemployed and a further 2% were on the sickness benefit. Four percent of the sample said that they were a voluntary worker or not in the paid labour force.

**Table 3.5** Detainees' employment status

	N	%
Employed full-time	156	41
Employed part-time	52	14
Unemployed	137	36
Voluntary worker/not in paid labour force	15	4
<i>Student</i>	12	3
<i>Self-employed</i>	3	1
<i>Sickness beneficiary</i>	9	2
Total	384*	100

Note: Student, self-employed and sickness beneficiary were not offered as options.

\*Employment status was not recorded for three people.

## 3.4 Criminal history

In addition to demographic information, we also asked detainees for information both on the sentences they had experienced in the past, and on their previous convictions. We chose not to verify this against records on the Case Monitoring Subsystem of the Law Enforcement System. This would have added a considerable amount of work to the project in looking up detainees' records for what we felt was not a significant part of the research. We also had concerns that this might have had an adverse impact on the response rate. As a result the information presented in this section needs to be approached with caution. It relies not only on the honesty of the detainees in reporting this information, but also on their accurate recall of their past sentences and convictions. However, we do consider the information to be sufficiently indicative for our purposes.

We did not ask detainees how many times they had previously experienced a particular sentence or the number of times they had been convicted of a particular offence. We are therefore only able to say for example, that a detainee had previously been convicted of a violent offence, but not how many convictions they had for violent offences.

### Past sentences

Respondents were asked 'Not counting the Periodic Detention you are on at the moment, which of these sentences have you received in the past?' They were then given a showcard (Appendix 3) and were read out a list of sentences. They were informed that we would not be looking up their record for this information.

Table 3.6 presents information on the previous sentences that detainees had experienced. A fine (84%) followed by disqualified driving (70%) were the sentences which detainees had most frequently experienced. Two-thirds (67%) had previously been sentenced to periodic detention. However, it is likely that while we told detainees not to include their current

sentence of periodic detention, some may have counted this. Slightly over a third (37%) had previously been sentenced to prison. Only 5% of the sample had no previous sentence experience. Twenty-two percent of the sample said that they had previously been sentenced to a community programme. However, less than 1% of imprisonable cases in 1998 were sentenced to a community programme. It is likely that some detainees were confusing this sentence with the sentence of supervision (with conditions to attend a community-based programme) or community service.

**Table 3.6 Past sentences that detainees had experienced**

	N	%
Prison	143	37
Periodic Detention	257	67
Community service	201	52
Community programme	83	22
Supervision	195	51
Reparation	180	47
Fine	324	84
Disqualified driving	272	70
Suspended sentence	140	36
None	20	5

Note: Past sentences were not recorded for one person.

Men were more likely than women to have previously been sentenced to a term of imprisonment or to have been disqualified from driving. Women were more likely to have been sentenced to community service.

Detainees aged over 30 were more likely to have previously been sentenced to a term of imprisonment or to have been disqualified from driving. Younger detainees (aged 17-29) were more likely to have been sentenced to community service or reparation.

A higher proportion of Māori detainees than non-Māori indicated that they had previously been sentenced to a term in prison, supervision or a suspended sentence of imprisonment. Slightly more Māori detainees had also been sentenced in the past to a community programme.

### **Past convictions**

Detainees were read out a list of offence categories, which are listed in table 3.7. They were asked 'Have you been convicted of [offence] in the past?' They were told to just answer yes or no to the question. Table 3.7 shows that 83% of detainees had past convictions for traffic offences. This was by far the most common prior conviction. The next most frequent offence types for which detainees had received past convictions were for violent offences (48%), theft (48%) and drugs (46%).

**Table 3.7 Detainees' previous convictions**

	N	%
Violent offence	184	48
Traffic offence	322	83
Burglary <sup>12</sup>	139	36
Fraud <sup>13</sup>	79	20
Theft	185	48
Drugs	176	46
Offences against justice <sup>14</sup>	141	37
Offences against good order <sup>15</sup>	163	42

Note: Previous convictions were not recorded for one person and violent offences were not recorded for two people.

Men were more likely than women to have past convictions for a traffic offence, burglary or an offence against good order.

Younger detainees (aged 17-29) were more likely to have past convictions for burglary.

Māori were more likely than non-Māori to have past convictions for theft, drug offences and offences against justice.

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<sup>12</sup> eg breaking and entering.

<sup>13</sup> eg credit card or cheque fraud.

<sup>14</sup> eg breach of periodic detention, failure to appear in court, breach of protection orders.

<sup>15</sup> eg disorderly behaviour, offensive language, carrying offensive weapons, trespassing and unlawful assembly.

# 4 Perception of sentences

## 4.1 Relative sentence severity

### 4.1.1 Introduction

The first question in the survey asked detainees to rank the order of 13 sentences from the least tough to the most tough. This question was based on one asked by Petersilia and Deschenes (1994) in their exploratory study of perceptions of punishments. Amongst other questions, they asked 48 inmates to rank the order of 15 sentences from the least severe to the most severe.

Most of the prior research on sentence severity has used either paired comparison or magnitude estimation to measure judgements. In magnitude estimation studies respondents are given a list of penalties and are instructed to assign a number to each penalty based on the standard of for example, 100 for 1 year in prison (eg Spelman 1995). Petersilia and Deschenes (1994) suggest that the use of magnitude estimation technique is problematic as it depends on the adequacy of participants' mathematical skills. In studies using paired comparison techniques, offenders are presented with two sentences and asked to make a comparative judgement (eg Couch 1993). While this method is easier than magnitude estimation, one of the limitations is the large number of possible permutations. For example, a study comparing 10 sentences would result in 45 paired combinations. Petersilia and Deschenes (1994) suggests that the use of rank ordering technique is likely to give a more accurate picture of offenders' perceptions of sentence severity due to the simplicity of the exercise in comparison with other techniques. In addition the use of rank ordering enables greater flexibility in the analysis.

In our survey, detainees were first of all asked to think about the periodic detention they were currently serving and then how tough they were finding it. This was to be a reference point for comparison with other sentences. Detainees were then handed a stack of cards randomly ordered. Each card had printed on it one of the 13 sentences (Appendix 3). These were read to the detainees to ensure that they understood what each sentence meant. The exercise did not proceed until the interviewer was clear that the detainee was familiar with each of the 13 sentences.

Detainees were then given a sort board with three boxes labeled 'slightly tough', 'very tough' and 'extremely tough' (Appendix 3). They were asked to place each sentence card on one of the three boxes according to how they would feel about that particular sentence. Once this had been completed detainees were then asked to take each of the piles of cards and line them up from the least tough to the most tough. At the end of the exercise they had a line of 13 cards. Detainees were asked to check through the line and make sure that all 13 cards were in the right order of toughness for them. They were able to make changes to the order

at this stage. Once the detainee was satisfied with the order in which they had placed the sentences, the interviewer recorded the position of each card.

#### 4.1.2 Mean rankings

First we wanted to find out how, on average, the 387 detainees ranked the 13 sentences. The following table presents the means, standard deviations, median and modal values for the ranking of each of the 13 sentences. The larger the values for the standard deviation the greater the variation between individuals in the ranking of sentences. For example, consensus amongst detainees was greatest in the ranking of three years imprisonment where the standard deviation was 0.93. Variation between individuals was greatest for nine months prison suspended for 18 months where the standard deviation was 2.91.

**Table 4.1 Detainees' rank ordering of sentences for 'toughness'**

Sentence	Mean rank	Standard Deviation <sup>1</sup>	95% confidence interval of mean	Median rank <sup>2</sup>	Modal rank <sup>3</sup>
Fine \$200	2.50	2.22	2.28, 2.72	1	1
100 hours community service <sup>16</sup>	3.70	2.23	3.48, 3.92	3	1
12 months supervision <sup>17</sup>	4.23	2.36	3.99, 4.47	4	4
Fine \$500	4.34	2.55	4.09, 4.59	3	2
4 months periodic detention <sup>18</sup>	5.06	1.92	4.87, 5.25	5	5
9 months prison suspended 18 months	6.11	2.91	5.82, 6.40	6	6
6 months residential community programme <sup>19</sup>	6.79	2.80	6.52, 7.06	7	9
Fine \$1,000	6.83	2.84	6.55, 7.11	7	3
12 months periodic detention	7.85	2.04	7.65, 8.05	8	9
3 months prison	8.90	1.64	8.74, 9.06	10	10
6 months prison	10.32	1.50	10.17, 10.47	11	11
12 months prison	11.53	1.39	11.39, 11.67	12	12
3 years prison	12.83	0.93	12.74, 12.92	13	13

1 The standard deviation serves as a basic measure of variability. This is the standard deviation of the detainees' scores.

2 The median is the middle value when all the ranks for each sentence are arranged from smallest to largest.

3 The mode is the most frequent rank for each sentence.

<sup>16</sup> Community service – person provides unpaid service to a community organisation.

<sup>17</sup> Supervision – offender reports regularly to a probation officer and may have to undertake courses or programmes.

<sup>18</sup> Periodic detention – offender is in custody of a warden for generally eight hours once a week and they work on various community projects.

<sup>19</sup> Community programme – offender undertakes a programme (such as drug and alcohol treatment) with a community organisation. In this case it is residential.

Secondly, we also wanted to know whether some sentences were ranked similarly in terms of toughness. For example, was 12 months periodic detention or a fine of \$1,000 given a similar ranking to a three months prison sentence? Overseas research has suggested that there can be ‘equivalencies’ between sentences in the mind of offenders. Table 4.1 contains 95% confidence intervals, which give a likely range of rankings for each individual sentence. These intervals can give an approximate indication of which sentences were given the most similar rankings in terms of toughness.<sup>20</sup> They show that on average, 12 months supervision was thought to be as tough as a \$500 fine, and a six month residential community programme was thought to be as tough as a \$1,000 fine. Paired comparison tests between adjacent sentences (Appendix 7) were also undertaken. These confirm that there was no statistical difference in ranking of toughness between supervision and a fine of \$500 and between six months residential community programme and a \$1,000 fine.<sup>21</sup>

Thirdly, we wanted to know whether different groups of detainees would rank the 13 sentences differently. Differences in means tests were undertaken to determine differences in rankings by respondents according to their demographic characteristics and their past sentences and convictions. Consistent differences in the rankings relating to fines, and to a lesser extent prison, were found between those who were employed and unemployed. Those who were unemployed perceived fines to be tougher, and prison (particularly shorter terms of imprisonment) less tough than those who were employed. The differences in mean rankings between those who were employed and unemployed can be seen in Table 4.2.

Past experiences of sentences, in particular prison, had some relationship with the ranking of sentences. Detainees who had previously been sentenced to a term in prison were more likely to perceive fines as being tougher and prison less tough than those who had not been to prison. Previous experience of fines had little relationship with how tough sentences were perceived to be.

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<sup>20</sup> The intervals for 12 months supervision and a fine of \$500 overlap (upper bound for 12 months supervision is 4.47 and lower bound for a fine of \$500 is 4.09) as do the intervals for 6 months residential community programme and a \$1,000 fine, so the rankings of these sentences are similar.

<sup>21</sup> There are two criticisms that could be made of the analysis in Table 4.1. Confidence intervals are being calculated for each sentence and then being compared. However, the individuals in each group are not independent. They are in fact the same. To compensate for this lack of independence, a paired comparisons test which tests the differences in ranks for each person was undertaken and the results were very similar. Further, the normal approximation may not completely hold, though it should give a reasonable approximation when the sample size is sufficiently large.

As a check on the method of the analysis in Table 4.1, we also fitted binomial logit models, which modelled the number of individuals who ranked each sentence tougher than a given pivot sentence. It should be noted that there was an important difference in the methods. The logit models did not take into account the size of the rank, only whether it was greater than that of the comparison sentence. The means and paired comparisons methods in Table 4.1 did take into account the size of the rank. The results from these models and the paired comparisons test were similar to those in Table 4.1.

**Table 4.2 Mean ranking of sentences by employment status**

	Mean (n=382)		Standard deviation*		P
	Employed	Unemployed	Employed	Unemployed	
\$200 fine	2.06	3.06	1.86	2.51	<b>0.000</b>
\$500 fine	3.75	5.09	2.24	2.73	<b>0.000</b>
\$1,000 fine	6.09	7.72	2.75	2.69	<b>0.000</b>
Comm programme	7.00	6.54	2.74	2.88	0.110
Supervision	4.34	4.06	2.33	2.38	0.260
Suspended sentence	6.26	5.88	2.83	3.01	0.214
Community service	3.91	3.46	2.07	2.40	0.051
4 mths pd	5.35	4.73	1.80	2.03	<b>0.002</b>
12 mths pd	7.92	7.77	1.60	2.47	0.472
3 mths prison	9.15	8.58	1.38	1.87	<b>0.001</b>
6 mths prison	10.56	10.03	1.08	1.85	<b>0.001</b>
12 mths prison	11.66	11.37	1.20	1.59	0.051
3 yrs prison	12.90	12.73	0.69	1.17	0.097

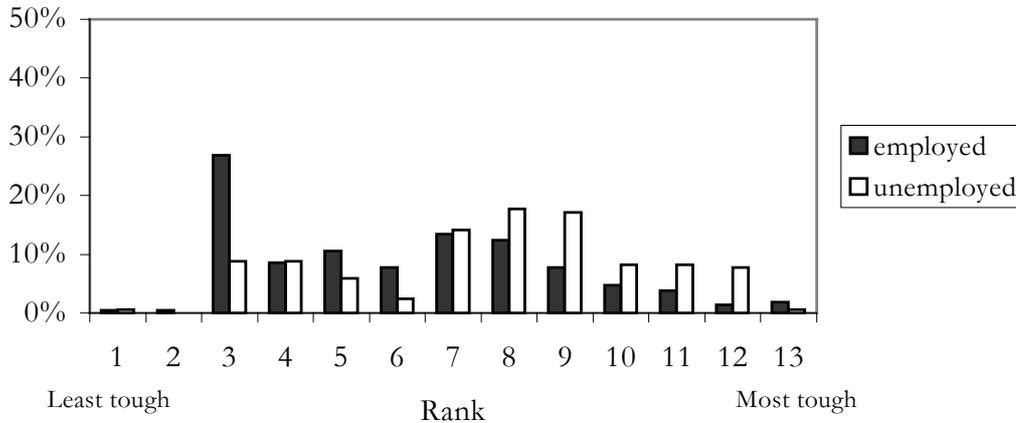
\*Standard deviation of the individuals' scores.

### 4.1.3 Rankings of specific sentences

We discuss below the rankings of \$1,000 fine, 12 months periodic detention, three months in prison and the suspended prison sentence. Appendix 8 contains figures that show rankings for each of the sentences.

#### Fine \$1,000

The mean ranking for \$1,000 fine was 6.83 with a median of 7. However, there was also a large variation in detainees' ranking of this sentence, as shown in Figure 4.1. Nineteen percent of detainees gave a \$1,000 fine a third place ranking. Between 12% and 15% of detainees gave the sentence a ranking of 7, 8 or 9 respectively. Nearly one in five detainees (18%) ranked a \$1,000 fine as tenth or higher in terms of toughness (with 13 being the 'most tough'). Figure 4.1 also shows that some of the variation in the ranking of the prison sentence is related to employment status.

**Figure 4.1 Ranking of \$1,000 fine, by employment status**

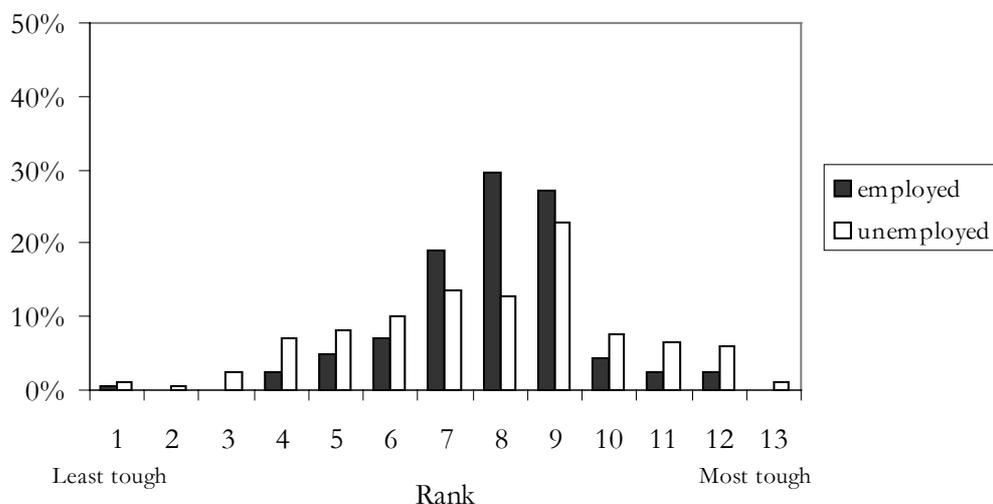
A quarter of the sample (24%) ranked a \$1,000 fine as tougher than a three months prison sentence and a third (36%) rated a \$1,000 fine as more severe than 12 months periodic detention. Unemployed detainees were considerably more likely to rank a \$1,000 fine as tougher than both three months in prison (34% compared to 15%) and 12 months periodic detention (45% compared to 28%). Detainees who had previously spent time in prison were also more likely to rank a \$1,000 fine as tougher than three months in prison (39% compared to 15%).

### Periodic detention 12 months

The average ranking for the sentence of 12 months periodic detention was 7.85, with the median ranking of 8. Figure 4.2 shows that there was some variability in the ranking of this sentence but the majority of detainees (64%) were clustered around the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> rank position. It also shows that unemployed detainees were more widely spread in their ranking of 12 months periodic than employed detainees, and were slightly more likely to rank it at either extreme of toughness. Fifteen percent gave 12 months periodic detention a ranking of tenth or higher.

A quarter (23%) rated 12 months periodic detention as being more severe than three months in prison. Thirty percent of unemployed detainees ranked 12 months periodic detention as more severe than three months in prison compared to 17% of employed detainees.

**Figure 4.2 Ranking of 12 months periodic detention, by employment status**

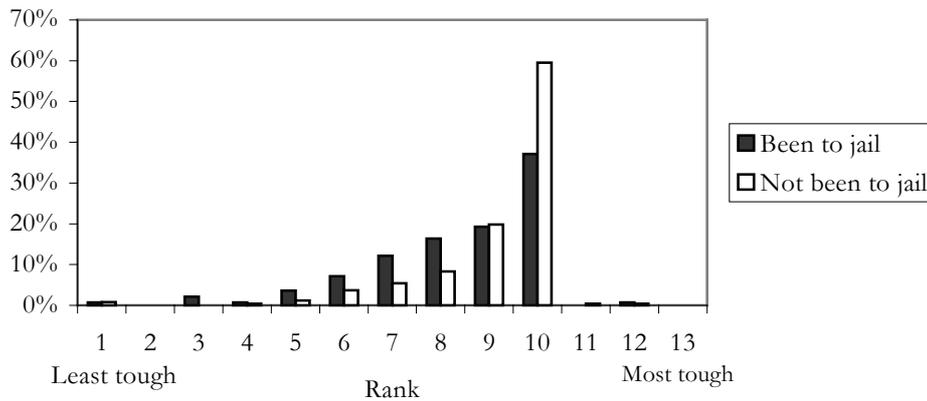


### Prison three months

The prison sentences were clearly ranked as the toughest of all 13 sentences and had the greatest consensus between detainees, compared to non-custodial sentences and fines. Nearly all detainees (94%) ranked three years in prison as the toughest of the 13 sentences, and 78% ranked 12 months in prison as second toughest (i.e. they gave it a rank of 12). There was greater variation between individuals in the ranking of shorter prison sentences. Two thirds of the detainees (67%) ranked six months in prison as the third toughest sentence (ie a rank of 11).

The mean ranking of three months in prison was 8.9 with a median of 10. While half the sample gave three months in prison a ranking of 10, over a third (39%) gave the sentence a ranking of 7, 8 or 9. Detainees who had not previously been to prison were considerably more likely than those who had to give three months prison a ranking of 10 (see Figure 4.3). Detainees with previous experience of prison were more likely to rank it as less tough. It is interesting to note that a few detainees mentioned that they would find a prison sentence of three months tougher than a longer prison sentence. Comments included that there is more opportunity to attend programmes if they are serving a longer sentence and that inmates serving shorter sentences are given a 'hard time'.

**Figure 4.3 Ranking of three months in prison, by previous experience of prison**

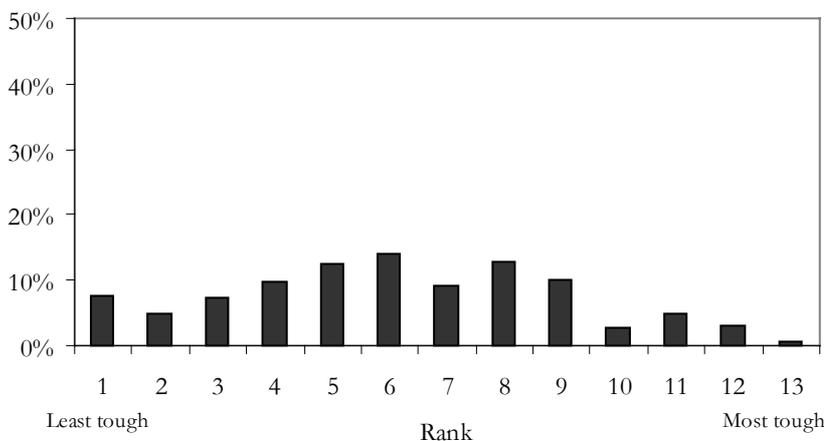


**Suspended prison sentence**

The mean ranking of a suspended prison sentence was 6.11 with a median rank of 6. As mentioned previously there was most variation between individual detainees in the ranking of nine months prison sentence suspended for 18 months. No rank position received support from more than 14% of detainees. Over a quarter of the detainees (30%) ranked the suspended sentence in the four least tough positions, and one fifth (11%) ranked it in the four most tough positions. Some detainees said that a suspended sentence was tough because it was difficult to make sure they made no mistakes for 18 months, while others said that it gave them a chance to help themselves. Sixteen percent of detainees judged a suspended prison sentence to be more severe than three months in prison.

Demographic factors did not appear to have a bearing on the ranking of the suspended prison sentence; the pattern was similar for unemployed and employed and so forth.

**Figure 4.4 Ranking of nine months prison suspended for 18 months**



This section shows that prison sentences were clearly ranked the toughest of the 13 sentences (see Table 4.1), but a significant minority indicated they would prefer a short custodial sentence (three months) to a fine of \$1,000 or 12 months periodic detention. Unemployed detainees and those previously sentenced to imprisonment perceived fines as being more tough and prison as less tough than those who were employed or had not previously been to prison.

#### **4.1.4 Comparison with overseas research**

Our findings are consistent with overseas research, which shows that some offenders consider short periods of prison to be less tough than other sentences which have conventionally been perceived as being less severe than a term of imprisonment. Imprisonment tends to be seen as the sentence of 'last resort'. A quarter of detainees in our study ranked a \$1,000 fine, and a similar proportion ranked 12 months periodic detention, as tougher than three months in prison. Sixteen percent of detainees judged a nine months prison sentence suspended for 18 months as being tougher than a three months prison sentence.

Crouch (1993) interviewed 1,000 Texan inmates and found that a third preferred one year in prison over three years on probation. In a study of 128 offenders on a range of sentences Spelman (1995) found that nearly three-quarters believed that two years intensive supervision was more severe than three months in a local jail, and 46% believed that a \$5,000 fine was more severe than three months in jail. When asked to explain why, comments included: that short jail terms were not very difficult; that it was over and done with after three months; that there were difficulties in obtaining money to pay the fine; and that there were difficulties in meeting the conditions on intensive supervision.

Petersilia and Deschenes (1994a & 1994b) found that there are some intermediate sanctions that equate in terms of punitiveness with prison. Inmates who participated in their research viewed one year of intensive supervision as equivalent in terms of severity to six months jail or three years probation. In addition, a \$5,000 fine was ranked similarly to one year intensive supervision. Spelman (1995) interviewed 128 people who had been sentenced to a range of sanctions (regular probation, intensive supervision, jail and prison). He also found that participants rated five punishments as about equally severe as a one year jail term: six months in a restitution centre, six months in a boot camp, one year in a drug treatment facility, one year on electronic monitoring, and two years on intensive supervision probation. Both Petersilia and Deschenes (1994) and Spelman (1995) suggest that these findings have important research and policy implications, particularly in developing a range of alternative sanctions.

Our findings show that there was no statistical difference in the ranking of toughness between supervision and a \$500 fine and also between six months residential community programme and a \$1,000 fine. No sentence was given a similar ranking to a term of imprisonment. However one of the probable reasons for this may be that we did not interview people who were currently serving a term of imprisonment. Both of the above studies included inmates in their samples. Current imprisonment is likely to have a major impact on perceptions of sentences and may even reduce the severity with which it is perceived. Certainly our results clearly show that detainees who had previously spent time in prison ranked terms of imprisonment as being less severe than those who had not previously

served a term in prison. Spelman found that 81% of offenders currently serving a term of imprisonment would chose another jail term over a longer term of intensive supervision, compared to 59% of other offenders.

Most of the American studies have shown a preference for prison amongst African American inmates. However our findings show little ethnic variation in the ranking of sentences, with Māori and non-Māori ranking prison equally tough. The exception to this was the ranking of six months residential community programme, with Māori perceiving this sentence to be slightly less severe than non-Māori. While community programme is a sentence which is infrequently used<sup>22</sup>, Māori and Pacific Peoples are about twice as likely to receive the sentence of community programme as other offenders.<sup>23</sup>

On the other hand our research showed a preference for prison among detainees who were unemployed. Employed detainees, not surprisingly showed a preference for fines. However, given the small sample size relative to the large number of possible rankings, statistical models are unlikely to pick out the demographic variables of interest. It is possible that other demographic variables such as age or ethnicity may have also have been related to the ranking of sentences, particularly those where there was a great deal of variation between individuals.

What association does previous experience of a sentence have on perceptions of severity of the sentence? Apospori and Alpert (1993) examined the effect of being sanctioned, that is criminal justice experience, on a person's estimates of the severity of punishment. They followed up adults three months after their arrest in 1981. At both times, offenders were asked to complete a magnitude estimation exercise to rate the severity of a number of sanctions, including probation, fine and prison. It was found that a higher proportion of offenders who received severe punishments raised their perceptions of the severity of sanctions. No significant changes were found among respondents who received lighter sentences. The authors suggest that these findings show that more severe legal sanctions are more successful than less severe sanctions in achieving the first goal of deterrence, raising people's perceptions of the severity of formal legal sanctions.

However, our results showed that it was in fact those detainees who had received more severe sentences, particularly prison, who lowered their perception of the severity of prison, and other research suggests the same. It may be that a recent sentence of imprisonment has a greater impact on perceptions of severity, particularly for someone who has never been sentenced to prison before.

## 4.2 Purposes of sentencing

There are a number of reasons why society punishes offenders. We focused on two of these in the study, deterrence and rehabilitation. Deterrence aims to influence future levels of offending through instilling the fear of future consequences. It is based on the notion that the threat of the sentence is a major constraint on offending. Rehabilitation aims to reduce future crime by changing behaviour, attitudes or the skills of the offender. It assumes that offending has specific causes, and the focus is on identifying and remedying these factors.

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<sup>22</sup> Only 0.5% of imprisonable cases in 1998 resulted in a community programme sentence.

<sup>23</sup> Triggs (1999).

We were interested in exploring whether some sentences were more likely than others to act as a deterrent or to help rehabilitate. We also wanted to find out if some sentences were more likely than others to deter or rehabilitate particular offenders, depending on demographic characteristics (eg age, ethnicity), past sentences or convictions. In addition, we were particularly interested in knowing whether past experience of a sentence impacted significantly on how that sentence was perceived.

Detainees were asked to consider five different sentences: a fine of \$500, four months periodic detention, prison for six months, 100 hours of community service and 12 months supervision. These sentences represent the range of sentences an offender is most likely to receive, and in addition, they were the sentences we were most interested in. Other sentences such as community programme are less frequently imposed. The amount of the fine (ie \$500) or length of the sentence chosen (for example, four months periodic detention) was based around the average or median length imposed for that particular sentence in 1998.

#### **4.2.1 Do sentences deter?**

Detainees were asked for each of the sentences listed, how likely it was that the sentence would be tough enough to stop them getting into trouble again. They were asked whether it 'would stop you', 'might stop you', or 'would not stop you' getting into trouble again.

Figure 4.5 shows that a fine of \$500 was the sentence that was least likely to stop the detainee from re-offending. Half the detainees (52%) said it would not stop them getting into trouble again and only 20% that it would stop them. Prison, on the other hand was the sentence most likely to be considered a deterrent, with two-thirds (68%) saying that six months in prison would stop them getting into trouble again. Only 12% said it would not stop them getting into trouble again.

Forty percent said that four months periodic detention would act as a deterrent and a similar proportion said the same for 12 months supervision (36%). Just over a quarter (28%) said 100 hours community service would stop them from getting into trouble again and about a third that it might stop (35%) or would not stop (37%).

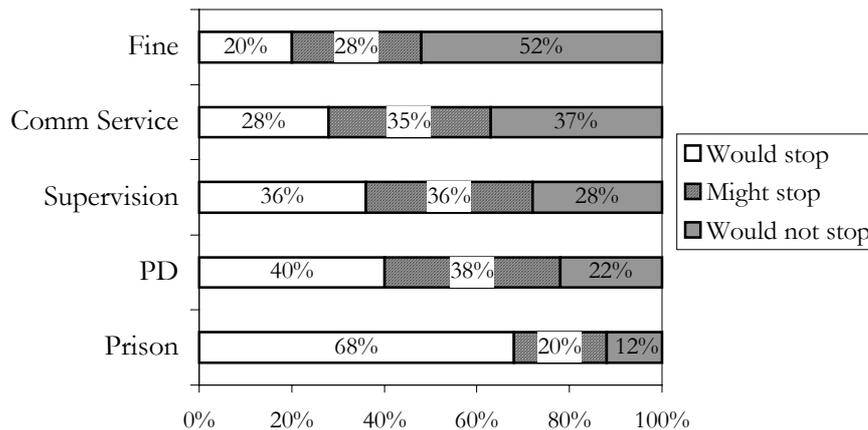
#### **Demographic factors**

Women were more likely than men to say that six months in prison would stop them from getting into trouble again (85% compared to 65%). Although it made little difference whether detainees indicated that they had a partner and/or children, detainees who said that their partner and/or children lived with them were also more likely to say that six months in prison would stop them from getting into trouble again (73% compared to 62%).

Older age groups (30+) were considerably more likely than those aged 17 to 29 to state that 100 hours of community service would be tough enough to stop them getting into trouble again (38% compared to 21%).

Employment status made very little difference as to whether a fine of \$500 would or would not stop someone from getting into trouble again. However, detainees who were employed were considerably more likely than those who were unemployed to say that prison for six months would stop them from getting into trouble again (74% compared to 59%).

**Figure 4.5 How likely is it that ‘sentence’ would be tough enough to stop you getting into trouble again?**



### Past sentences

Detainees were asked to indicate, from a list provided, which sentences they had received in the past. This information is provided in Chapter 3. Analysis was undertaken to ascertain whether the sentences offenders had previously served were related to whether they believed a particular sentence would be tough enough to stop them getting into trouble again (see Appendix 9 for a full list of tables). We also examined the impact of the number of different types of sentences a detainee had experienced in the past on their perceptions of sentences. We had only asked detainees to indicate whether they had received a sentence in the past, not how many times they had received it. We are therefore only able to examine the range of sentences a detainee had experienced, not the number of times they had been sentenced to one particular sentence.

Three categories were developed: detainees who had not previously experienced any sentence, or who had only experienced one sentence type; detainees who had experienced two or three types of sentences; and those who had experienced four or more types of sentences. Only 9% (36) of the sample fitted into the first category of having no experience, or only one prior sentence (minimal experience). A quarter (26%, 99) had past experience of two or three types of sentences (some experience). The majority (65%, 386) had experienced between four and nine types of sentences (considerable experience).

We examined the relationship between past experience and the deterrent value of each sentence in turn.

*Fine \$500*

- Those who had previously been sentenced to supervision, periodic detention, or disqualified from driving were significantly less likely to state that a \$500 fine would deter them.

*Community service 100 hours*

- Detainees who had previously experienced community service were considerably more likely to say that 100 hours of community service would not stop them from getting into trouble again (45% compared to 29%).

*Supervision 12 months*

- Detainees who had previously been sentenced to supervision were less likely than those who had not experienced this sentence to say that 12 months supervision would stop them from getting into trouble again (30% compared to 41%).

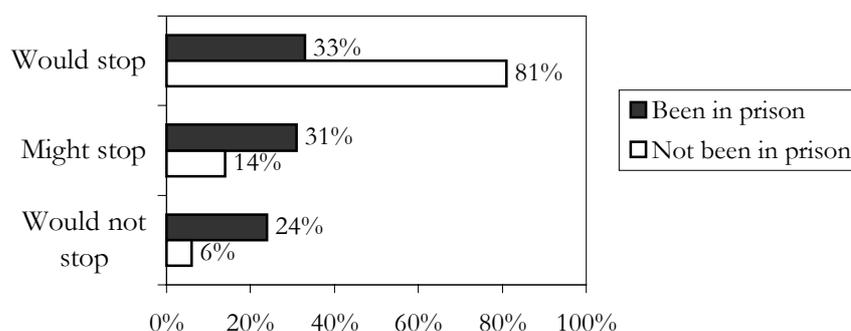
*Periodic detention four months*

- Detainees who had previously been sentenced to periodic detention were considerably less likely to say that four months periodic detention would stop them from getting into trouble again (33% compared to 53%). This was similar with all other past sentences, but was particularly the case for detainees who had previously been sentenced to prison, community programme, supervision, or a suspended prison sentence.
- Detainees who had experienced fewer sentences were more likely to say that four months periodic detention would stop them from getting into trouble again. Two-thirds of those who had no or only one or prior sentence said periodic detention would stop them, compared with 33% of those with four or more prior sentences.

*Prison six months*

- When asked whether six months in prison would be tough enough to stop them getting into trouble again, detainees who had previous experience of most sentences were less likely to say that it ‘would stop’ them.
- This was considerably so in the case of those who had previously been to prison (see Figure 4.6). Most detainees who had never been to prison (81%) said six months in prison would stop them getting into trouble again compared to under half (45%) of those who had previously been sentenced to prison.

**Figure 4.6 Would six months in prison be tough enough to stop re-offending? Detainees who had and had not been to prison.**



- The range of prior sentences a detainee had experienced was significantly related to their perceptions of six months in prison. The vast majority of detainees with minimal or some past experience of sentences (94% and 80% respectively) said that prison would deter them from future offending compared with 59% of those with considerable past experience of sentences.

### **Past offences**

Detainees were also asked to indicate the types of offences for which they had been convicted in the past (see Chapter 3). Tables showing analysis of the relationship between past convictions for particular offences and whether sentences would be tough enough to stop them getting into trouble again can be found in Appendix 10.<sup>24</sup> In general, convictions for offences against good order, or against justice and for drug offences had the strongest relationship with the perceived deterrent effect of sentences.

Of more importance perhaps, is the impact that a range of past convictions had on how sentences were perceived. As with past sentences, we were not able to determine the number of times a detainee had been convicted of, say, a violent offence. But we could determine the number of types of offences for which they had convictions, for example, whether they had been convicted of both a violent and a traffic offence.

Again, three categories were developed: detainees who had no past convictions or who had only a past conviction for one type of offence; detainees who had been convicted of two or three types of offences; and those who had been convicted of four or more types of offences. Eighteen percent (18%, 68) of the sample fitted into this first category of none or only one past conviction. Thirty-one percent (31%, 118) had past convictions for two or three types of offences and half (52%, 199) had past convictions for four or more types of offences.

We found that with the exception of a fine of \$500, detainees with fewer types of past convictions were more likely than those with four or more to say that each sentence would stop them from getting into trouble again. This was particularly the case with periodic detention and prison:

- Detainees with few or some past convictions (59% and 46% respectively) were considerably more likely than those with four or more to say that four months periodic detention would stop them from getting into trouble again (29%).
- Four out of five detainees who had no past convictions or past convictions for only one type of offence (88%) and those with past convictions for two or three offence types (81%) said that six months in prison would deter them from re-offending. This compares to 52% of detainees with four or more past convictions who said that prison would stop them from getting into trouble again.

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<sup>24</sup> These findings are not discussed in full as with past sentence experience, as they are considered to be of less relevance.

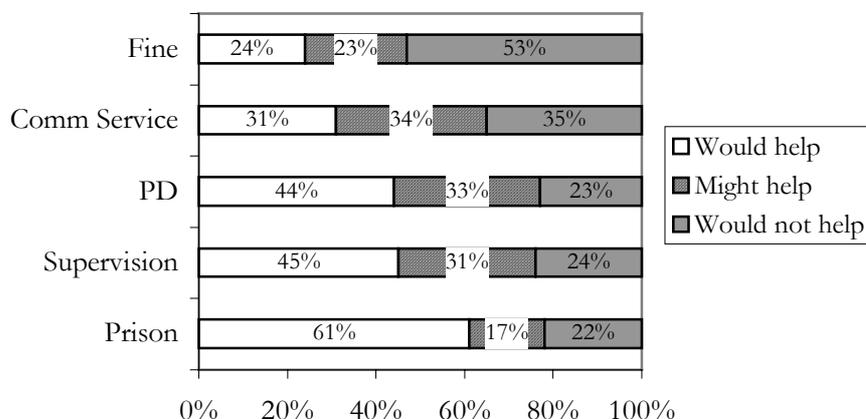
To summarise this section, six months in prison was perceived as having the greatest deterrent effect. However, men, unemployed detainees, and those who had previously spent time in prison, were less likely to say that prison would stop them from getting into trouble again.

#### 4.2.2 Do sentences rehabilitate?

Detainees were introduced to the concept of rehabilitation.<sup>25</sup> They were then asked for each of the sentences listed (those which had already been asked in the previous question) whether the sentence ‘would help’, ‘might help’, or ‘would not help’ them make changes to their life.

Detainees reported that out of the five sentences, a fine was the sentence which was least likely to help them make changes to their lives (24%) and prison the most likely (61%) (see Figure 4.7). About two in five respondents said that 12 months supervision (45%) and four months periodic detention (44%) would help them make changes to their lives. About a third of the sample responded to each of the options when asked whether 100 hours community service would help, might help them, or would not help them make changes to their lives.

**Figure 4.7** How likely is it that ‘sentence’ would help you make changes to your life?



#### Demographic factors

Proportionally, more women than men said that six months prison would help them make changes to their lives. Detainees whose partners or children lived with them were more likely than those who lived separately to say that prison would help them make changes to their lives (67% compared to 51%). Similarly, detainees whose partners or children lived with them were also more likely to say that a fine of \$500 would help them make changes to their lives (30% compared to 17%).

<sup>25</sup> Detainees were told: ‘Some sentences are supposed to help people change their lives so that they stay out of trouble’.

Age was strongly related to detainees' views on whether these sentences would serve a rehabilitative purpose. Detainees who were aged 30 or over were considerably more likely than those aged 17 to 29 to say that a \$500 fine (32% compared with 19%), four months periodic detention (52% compared with 39%) and 100 hours community service (44% compared to 22%) would help them make changes to their lives.

There were only minimal differences between Māori and non-Māori detainees in their views on whether the different sentences would help them. In general, detainees who were employed were more likely than those who were unemployed to say that a particular sentence would or might help them make changes to their lives. In particular, detainees who were employed (66%) were more likely than those who were unemployed (55%) to say that prison would help them make changes to their lives.

### **Past Sentences**

#### *Fine \$500*

- Those who had previously been sentenced to supervision, reparation and disqualified driving were less likely than those who had not to say that a \$500 fine would help them make changes to their life.

#### *Community service 100 hours*

- Detainees who had previously been sentenced to community service or reparation were less likely than those who had not to say that 100 hours of community service would serve a rehabilitative purpose.

#### *Supervision 12 months*

- Past experience of supervision bore little relationship to whether a detainee thought that 12 months supervision would help them make changes to their lives.

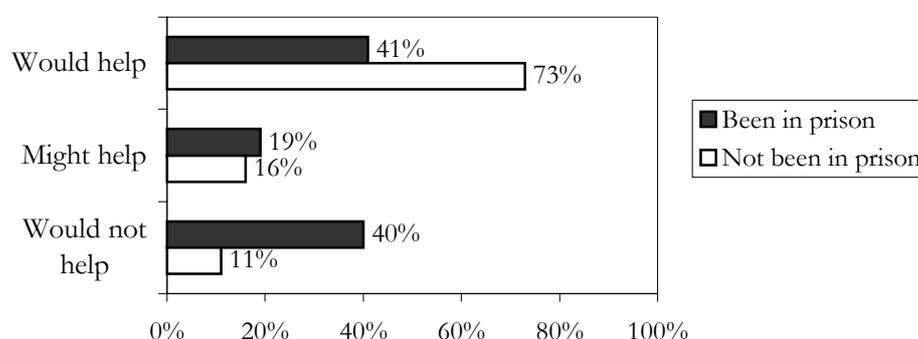
#### *Periodic detention four months*

- Detainees previously sentenced to community service and supervision were significantly less likely to say that four months periodic detention would help them. In each case, 38% of detainees said that four months periodic detention would help them make changes to their lives, compared to 51% of those who had not experienced community service or supervision.
- Previous experience of periodic detention bore little relationship to whether four months periodic detention would serve a rehabilitative purpose.

#### *Prison six months*

- Detainees who had not experienced prison were more likely to perceive six months prison as serving a rehabilitative purpose (see Figure 4.8). Two in five detainees who had been to prison said that six months in prison would help them make changes to their lives, compared to three-quarters of detainees who had not been to prison.

**Figure 4.8** Would six months in prison help you make changes to your life? Detainees who had and had not been to prison.



- In addition, detainees who had previously been sentenced to periodic detention, community programme, supervision, reparation and a suspended sentence were considerably less likely than those who hadn't to say that six months in prison would help them make changes to their lives.
- Eighty-one percent of those with minimal past sentence experience and 74% of those with some experience said that six months in prison would help them make changes to their lives, compared to 54% of detainees with considerable past experience of sentences.

### Past offences

- Past convictions for drug offences, offences against justice and against good order tended to have the greatest relationship with detainees' perceptions of whether sentences would help them make changes to their lives.
- Detainees with fewer types of past convictions were significantly more likely than those with four or more types of past convictions to say a fine of \$500, four months periodic detention, and six months in prison would help them make changes to their lives. It made little difference, however, to perceptions of community service or supervision.

In summary, this section demonstrates that prison was perceived as having the greatest rehabilitative effect and fines the least. Men, unemployed detainees and those who had previously been to prison, were significantly less likely to say that prison would help them make changes to their lives.

### 4.2.3 Overseas research

Mair and May (1997) surveyed a sample of 1,213 offenders on probation in England and Wales (probation is similar to the sentence of supervision in New Zealand). Among other questions, probationers were asked whether probation, community service or prison would stop them from committing an offence in the future. Similar to our findings, Mair and May found that prison was perceived by probationers as most likely to stop them from committing

another offence in the future. Three-quarters (76%) said that prison would stop them and 15% that it would not. Two-thirds of the detainees we interviewed (68%) said six months in prison would stop them from getting into trouble again, and 12% said it would not. In both our study and that of Mair and May, men were more likely than women to say that prison would not stop them.

Half of the probationers in Mair and May's study (49%) said that probation would stop them from committing an offence in the future and 44% that community service would deter them from future offending. A third of our sample said 12 months supervision would stop them from getting into trouble again and 28% that 100 hours of community service would stop them.

## **4.3 Summary**

### **4.3.1 Ranking of sentences**

- Prison sentences were considered to be the most severe of all the sentences. No non-custodial sentence was given a similar ranking to a prison sentence. There was greatest consensus between detainees in the ranking of the prison sentences.
- On average, 12 months supervision was thought to be as tough as a \$500 fine; and six months residential community programme was thought to be as tough as a \$1,000 fine.
- There was greatest variability among detainees in the ranking of a suspended prison sentence, a \$1,000 fine and a six months residential community programme.
- Detainees' employment status was related to their ranking of sentences. Those who were unemployed perceived fines as being more tough and prison (particularly shorter terms of imprisonment) as being less tough than those who were employed.
- Detainees who had previously been sentenced to imprisonment were also more likely to perceive prison as being less tough and fines more tough than those who had not been to prison.
- A quarter of the sample ranked a \$1,000 fine or 12 months periodic detention as being more tough than three months in prison.

### **4.3.2 Aims of sentences**

- Six months in prison was perceived as having the greatest deterrent and rehabilitative effects. However, prison was only likely to act as a deterrent or to rehabilitate when the detainee had not previously spent time in prison.
- Women were more likely than men to say that six months in prison would stop them from getting into trouble again and also more likely to say that prison would help them make changes to their lives.
- Older detainees (30+) were more likely than younger detainees to perceive a fine, community service, and periodic detention as having a rehabilitative effect.
- Detainees who were employed were more likely than those who were unemployed to say that prison would deter them from future offending and would help them make changes to their lives.



# 5 Sentencing practice

## 5.1 Introduction

While there has been a great deal of overseas research examining public opinion of sentencing, there has been very little research to determine offenders' opinions of sentencing. Research on public attitudes to sentencing has generally shown that the public believe sentences to be too lenient. However, when questioned about the type of offender they had in mind, most respondents in this type of research were generally thinking of a violent offender (Roberts and Stalans 1997). Hough and Roberts (1998) found that when the British public were asked about a real case of burglary, their sentencing prescriptions were, on balance, in line with current sentencing practice.

Furnham and Alison (1994) conducted one of the few studies we have managed to locate which asked offenders to choose appropriate sentences for specific crimes. Offenders' choice of sentences for 32 offences, varying in severity, was compared to those of the police and general public. Police tended to give harsher penalties than either offenders or the public, but there was broad agreement between all three groups on half the crimes.

In this section we examine offenders' views on sentencing practice. We asked the sample of detainees what they thought was the right sentence for people convicted of crimes described in three scenarios.

While the scenarios contain some information about the nature of the offence and characteristics of the victim, they are still fairly limited in their descriptions. It was beyond the scope of this exercise to ensure that the respondent had all the information available to them about the case (as for example is available to a judge). More information about an offender's past and current circumstances may influence a respondent's choice of sentence.

## 5.2 Sentencing for specific crimes

Detainees were read three scenarios describing crimes and the circumstances in which they were committed. They were also given a showcard containing a list of sentences, 15 options altogether (Appendix 3). Interviewers went through each option with the detainee to ensure that they understood what each sentence entailed. After they had been read the scenario, participants were asked to indicate what sentence should be imposed on the offender in each scenario. They were able to state up to three sentences in combination, although multiple responses were not encouraged.

### Scenario 1: “John” convicted of theft through fraudulent use

John aged 45, used a client’s money which should have been held in trust, as a \$50,000 deposit to buy an apartment for himself. At the time of the offence, John was a partner in a city legal firm. He has no previous convictions.

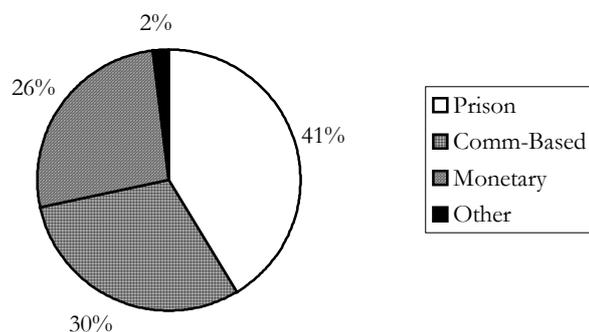
Seventy percent of detainees (271) mentioned only one sentence option for “John”, 22% (86) mentioned a combination of two sentences and a further 8% (29) gave a combination of three sentences. One detainee did not respond to this question.

Where detainees gave more than one sentence option, the most ‘serious’ sentence was used in some subsequent analysis. The sentences listed on Showcard 4 (Appendix 3) are ordered according to the hierarchy of sentence seriousness used by the Ministry of Justice (see Spier 1999). Therefore, if for example, a detainee thought that “John” should be sentenced to periodic detention, supervision and reparation, then periodic detention would be selected as the most ‘serious’ sentence.

Sentences were grouped into four categories: **prison** (life imprisonment, imprisonment of more than 10 years, imprisonment of between five and ten years, imprisonment of between one and five years, and imprisonment of less than one year); **community-based sentences** (periodic detention, community service, community programme, supervision); **monetary penalties** (reparation, fine); and **other** (disqualified from driving, suspended prison sentence, warning and no penalty).

Figure 5.1 shows the results of this analysis for the scenario of “John”. Forty-one percent of the sample thought that “John” should be sentenced to a term of imprisonment and 30% considered he should receive a community-based sentence as the most serious sentence. Periodic detention was mentioned by 20% of detainees.

**Figure 5.1 Detainees’ most serious sentence for “John”, convicted of theft through fraudulent use<sup>26</sup>**



Note: In this and subsequent figures percentages may not add to exactly 100 due to rounding.

<sup>26</sup> The sentences are ordered according to the hierarchy of sentence seriousness used by the Ministry of Justice (Spier, 1999). This order has been imposed for this analysis and ‘seriousness’ does not represent detainees’ choice of most serious sentence.

Table 5.1 presents more detailed information on detainees' choice of sentence for "John". All the sentence options are included in the table. It can be seen that the term of imprisonment most frequently chosen was between one and five years (22%) followed by a term of imprisonment of less than a year (12%). Prison was mentioned by 39% of detainees as their first option in sentencing "John", and by 2% as their second option. In these 2% of cases, reparation was mentioned as the first choice.

A community-based sentence was mentioned by about a third of detainees (35%) as one of their three sentence options. This was most frequently periodic detention (20%). Supervision and community service were each mentioned by 6% of detainees.

Table 5.1 shows that 44% of detainees thought that "John" should be sentenced to pay reparation and 10% thought a fine should be part of his sentence. A quarter of detainees mentioned reparation as their only sentence option for "John" and 5% mentioned only a fine. Reparation or a fine were commonly mentioned in combination with another sentence. In particular, the majority of detainees who gave more than one sentence option, considered that reparation should be combined with periodic detention or another community-based sentence. Several also mentioned reparation in combination with a fine or in combination with a term of imprisonment or a suspended prison sentence. Some detainees chose a combination of options that is not currently available by law.

**Table 5.1 Sentences selected by detainees for "John", convicted of theft through fraudulent use**

Sentences	N (n=386)	%
<b>Prison</b>		
Life imprisonment	2	1
Imprisonment of more than 10 years	6	2
Imprisonment between 5 & 10 years	21	5
Imprisonment between 1 & 5 years	84	22
Imprisonment of less than one year	45	12
<b>Community-based</b>		
Periodic detention	78	20
Community service	23	6
Community programme	8	2
Supervision	24	6
<b>Monetary</b>		
Reparation	168	44
Fine	38	10
<b>Other</b>		
Disqualified from driving	0	0
Suspended prison sentence	31	8
Warning (and no other penalty)	2	1
No penalty at all given	0	0

Note: Percentages add up to more than 100 because some detainees mentioned more than one sentence option.

Detainees with past experience of reparation were much more likely to impose either a fine or reparation as the most serious sentence for “John” who had been convicted of theft through fraudulent use (33% compared to 20%).

## Scenario 2: “Peter” convicted of male assaults female

Peter, aged 32, threw a vase at his partner after a night out drinking with friends. His partner required several stitches to her head and she was off work for three days. Peter, a bank clerk, has been convicted for this type of assault before.

Seventy-eight percent of the sample (302) of detainees gave only one sentence to “Peter”, 18% (68) gave a combination of two sentences and a further 4% (15) gave three sentences. Two detainees did not respond to this question.

Figure 5.2 shows that over half of the sample (58%) thought that “Peter” should receive a term of imprisonment. A community-based sentence was mentioned by 36% of the sample as the most serious sentence for “Peter” (convicted of male assaults female). This was most likely to be periodic detention (19%), but in 9% of cases a community programme was mentioned. An Other sentence, most commonly a suspended sentence of imprisonment, was mentioned as the most serious sentence for “Peter” by 5% of detainees.

**Figure 5.2 Detainees’ most serious sentence for “Peter”, convicted of male assaults female<sup>27</sup>**

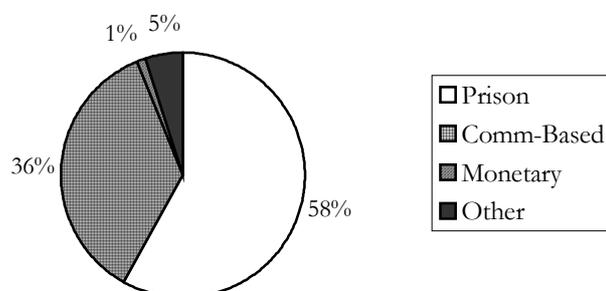


Table 5.2 shows that the most frequent term of imprisonment recommended for “Peter” was a sentence of less than one year in prison (31%), but 21% considered that “Peter” should be sent to prison for between one and five years.

A community-based sentence was mentioned by half the detainees (51%) as one of the three sentencing options for “Peter”. This was most frequently periodic detention (21%). However, 16% also mentioned a community programme and 11% supervision. A monetary penalty was only mentioned by 6% of detainees and a suspended sentence by 10%.

<sup>27</sup> The sentences are ordered according to the hierarchy of sentence seriousness used by the Ministry of Justice (Spier, 1999). This order has been imposed for this analysis and ‘seriousness’ does not represent detainees’ choice of most serious sentence.

Where detainees gave a combination of two or more sentences, this was most frequently a combination of community-based sentences, particularly periodic detention in conjunction with either community programme or supervision. However, a term of imprisonment or a suspended prison sentence was also combined reasonably often with a community-based sentence. Again, some detainees chose a combination of sentences that is not currently available by law.

**Table 5.2 Sentences selected by detainees for “Peter”, convicted of male assaults female**

Sentences	N (n=385)	%
<b>Prison sentence</b>		
Life imprisonment	2	1
Imprisonment of more than 10 years	2	1
Imprisonment between 5 & 10 years	22	6
Imprisonment between 1 & 5 years	82	21
Imprisonment of less than one year	118	31
<b>Community-based</b>		
Periodic detention	81	21
Community service	11	3
Community programme	61	16
Supervision	43	11
<b>Monetary penalty</b>		
Reparation	12	3
Fine	10	3
<b>Other sentence</b>		
Disqualified from driving	0	0
Suspended prison sentence	37	10
Warning (and no other penalty)	3	1
No penalty at all given	0	0

Note: Percentages add up to more than 100 because some detainees mentioned more than one sentence option.

### Scenario 3: “Paul” convicted of aggravated burglary

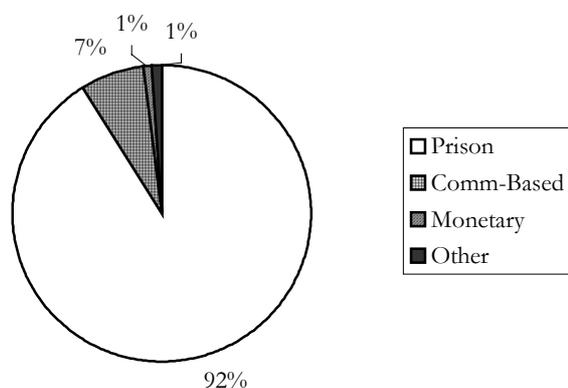
Paul, aged 22 and unemployed, broke into an elderly couple’s house. When the elderly man got up to investigate the noise, Paul threatened him with a gun, and then ran off. He has previous convictions for breaking and entering.

Ninety-one percent of detainees (350) gave only one sentence option for “Paul” (convicted of aggravated burglary), and 9% (36) in total gave a combination of sentences. Two detainees declined to answer the question.

Figure 5.3 shows that the vast majority of detainees (92%) considered that “Paul” should be sentenced to a term of imprisonment. Seven percent thought “Paul” should be sentenced to a community-based sentence as the most serious sentence.

Table 5.3 shows that 43% thought this term of imprisonment should be between one and five years, 22% that it should be between 5 and 10 years and 19% that the term of imprisonment should be less than a year. Twelve percent mentioned a community-based sentence as one of their three options. Three percent mentioned a monetary penalty and 3% a suspended sentence as one of their three sentence options. Where more than one sentence option was given, the combination was most frequently a term of imprisonment, including a suspended prison sentence and a community-based sentence. Periodic detention was often combined with a suspended prison sentence and supervision or a community programme was combined with a prison sentence.

**Figure 5.3 Detainees’ most serious sentence for “Paul”, convicted of aggravated burglary<sup>28</sup>**



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<sup>28</sup> The sentences are ordered according to the hierarchy of sentence seriousness used by the Ministry of Justice (Spier, 1999). This order has been imposed for this analysis and ‘seriousness’ does not represent detainees’ choice of most serious sentence.

**Table 5.3 Sentences selected by detainees for “Paul”, convicted of burglary**

Sentences	N (n=385)	%
<b>Prison sentence</b>		
Life imprisonment	9	2
Imprisonment of more than 10 years	21	5
Imprisonment between 5 & 10 years	87	23
Imprisonment between 1 & 5 years	166	43
Imprisonment of less than one year	75	19
<b>Community-based sentence</b>		
Periodic detention	20	5
Community service	1	x
Community programme	13	3
Supervision	12	3
<b>Monetary penalty</b>		
Reparation	5	1
Fine	6	2
<b>Other sentence</b>		
Disqualified from driving	0	0
Suspended prison sentence	11	3
Warning (and no other penalty)	1	x
No penalty at all given	0	0

x Denotes percentage less than 0.5.

Note: Percentages add up to more than 100 because some detainees mentioned more than one sentence option.

## 5.5 Summary

- Forty-one percent of detainees sentenced “John”, who had been convicted of theft through fraudulent use, to a term of imprisonment. Forty-four percent of detainees thought “John” should be sentenced to pay reparation and 10% a fine. Reparation or a fine however, were commonly mentioned with another sentence, particularly periodic detention. Detainees who had previously been sentenced to reparation were significantly more likely to say that “John” should be sentenced to a monetary penalty as the most serious sentence.
- Over half the sample (58%) sentenced “Peter”, who assaulted his partner, to imprisonment. Half (51%) sentenced “Peter” to a community-based sentence but this was often in combination with another sentence.
- The vast majority of detainees (92%) sentenced “Paul”, convicted of aggravated burglary, to prison.



# 6 Knowledge about crime and sentencing

## 6.1 Introduction

This chapter presents the results of questions in the survey which were designed to explore offenders' knowledge of crime-related facts and statistics, including the criminal justice system's response to a person convicted of rape.

Roberts and Stalans (1997) note that research on what the public knows about crime and the criminal justice system is an area that has generally been neglected by social scientists. However, research on what people convicted of crimes know about these matters is even more scarce. We were not able to find any studies exploring offenders' knowledge of crime and sentencing. Yet Robert and Stalans (1997) suggest that the effectiveness of the criminal justice system is reliant on people's knowledge of that system and that one factor deterring people from offending is an awareness of the penalties that may follow a conviction.

## 6.2 Changes in recorded crime

The first question asked participants whether they thought the amount of crime reported to the police in New Zealand had changed over the last two years.

Statistics show that while the crime rate has been fluctuating, the overall crime rate fell 2.2% in the five years from 1994 to 1999. Police statistics<sup>29</sup> showed that total (non-traffic) recorded crime dropped from 461,667 offences in 1998 to 438,074 in 1999 (down 5.1%) and that between 1997 and 1998 recorded crime dropped 2.5%.

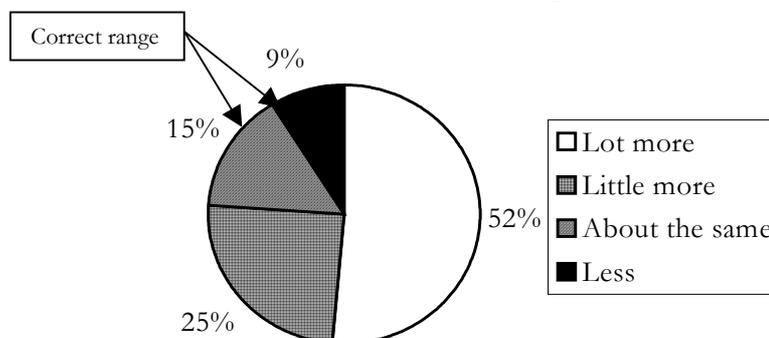
Excluding six detainees who did not respond to this question, the majority of the sample (77%) said that the crime rate was increasing. Figure 6.1 shows that half said that there was a lot more crime and a quarter that there was a little more crime. Only 15% said that there was about the same amount of crime and 9% that there was less crime. If we accept that the

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<sup>29</sup> Official NZ Police statistics, as released on 20 April 2000.

crime rate is either falling or staying about the same (hence the arrows pointing to both segments in the chart below), then three-quarters of the sample ‘got it wrong’. Even if we accept that those who responded that there was a little more crime were also correct, half the sample still got the answer wrong.

**Figure 6.1 Detainees’ perceptions of changes in recorded crime<sup>30</sup>**



Note: In this and subsequent figures, percentages may not add to exactly 100 due to rounding.

Pacific Peoples (59%) and Māori (57%) detainees were slightly more likely than Pakeha/‘other’ (44%) to say that there was a lot more crime. There were no other significant differences between detainees’ perceptions of the change in recorded crime according to other demographic characteristics.

Past convictions for offences against justice<sup>31</sup>, in particular, was significantly related to the extent to which detainees reported that there was now a lot more crime. These participants were more likely to think there was now a lot more crime (62%), compared to those who had not been convicted of an offence against justice (46%).

### 6.3 Amount of violent crime

Overseas research has shown that the general public overestimate by a considerable margin, the amount of crime which involves violence. Surveys of the Australian, Canadian and British public show that around three-quarters of the samples substantially over-estimated the proportion of violent crime (Indermaur, 1987; Doob & Roberts, 1988; Mattinson & Mirrlees-Black, 2000).

We asked the detainees to indicate, out of every 100 crimes reported to the police, roughly how many they thought involved violence or the threat of violence.

<sup>30</sup> Question: Using this card, please tell me whether you think that the amount of crime reported to the police in New Zealand has changed over the past two years. Do you think there is a lot more crime, a little more crime, about the same, a little less crime, or a lot less crime than two years ago?

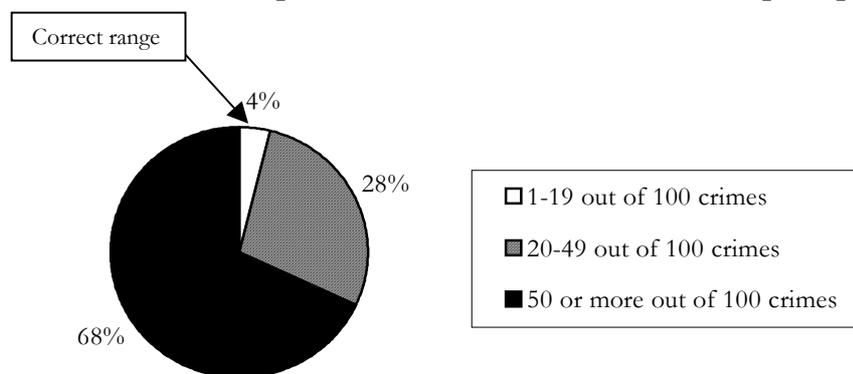
<sup>31</sup> Breaching periodic detention, failing to appear in court and breaching a protection order are examples of offences against justice.

Police statistics show that in 1999, 9.1% of all (non-traffic) recorded crime was grouped as violent.<sup>32</sup> This excludes sexual offences, which make up an additional 0.7% of all recorded crime. Dishonesty offences on the other hand (burglary, vehicle taking/interfering, theft, receiving and fraud), comprised 61% of all recorded crime in 1999. Ministry of Justice statistics show that 13% of all (non-traffic) convictions were for violent offences in 1999 (Spier 2000). This definition includes most sexual offences. Convictions for property offences comprised 43% of all convictions in 1999.

We decided therefore that any response which estimated that between 1% and 19% of crime involves violence would be considered within the correct range (refer to arrow in Figure 6.2 below). Respondents who estimated that between 20% and 49% of crime was violent were classified into those who ‘moderately overestimated’ the amount of violent crime. Respondents saying that 50% or more of crime was violent were considered to have ‘substantially overestimated’ the amount of violent crime.

The majority of the detainees substantially overestimated the extent to which reported crime involved violence (Figure 6.2). Excluding seven respondents (2%) who said they did not know, two-thirds of the sample (68%) believed that 50 or more crimes out of 100 were violent. A quarter (28%) reported that between 20 and 49 crimes out of 100 were violent, and only 4% of the participants’ responses fell within the correct range of 1-19. The mean response was 55%.

**Figure 6.2 How much reported crime is violent? Detainees’ perceptions<sup>33</sup>**



Gender was the only demographic variable which was significantly associated with the extent to which the detainees overestimated the amount of violent crime. Women were much more likely (87%) than men (66%) to substantially overestimate the amount of violent crime.

Past experience of community service was the only sentence that was significantly associated with perceptions of the amount of violent crime. Detainees who had served a community service sentence in the past were more likely to substantially overestimate the amount of violent crime (73%) compared to those who had not experienced this sentence (62%).

<sup>32</sup> This includes homicide, robbery, grievous assaults, serious assaults, minor assaults and other violent offences.

<sup>33</sup> Question: Of every 100 crimes reported to the police, roughly how many do you think involve violence or the threat of violence?

Participants with past convictions for a violent offence were slightly more likely than those who did not have a past conviction for this type of offence, to substantially overestimate the proportion of reported violent crime (73% compared to 63%).

## **6.4 Length of prison sentences for rape**

Detainees were asked a series of questions which explored their understanding of the criminal justice system's response to a person convicted of rape.

### **The statutory maximum penalty for rape**

In the first of these questions, detainees were asked to identify the statutory maximum penalty for rape.

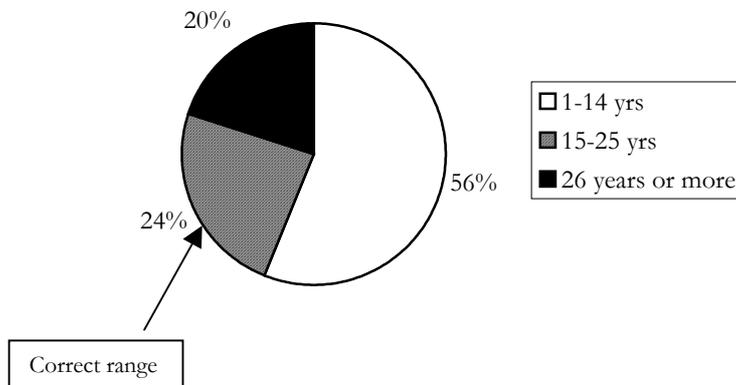
The maximum sentence for rape is 20 years.<sup>34</sup> Only 9% of detainees gave this precise response. However, for the purposes of this analysis we accepted five years either side of 20 years as being within the correct range, that is, 15-25 years.

The majority of the sample of detainees (56%) underestimated the statutory maximum penalty for rape at between one and 14 years imprisonment. Within this range, 10 years was most often mentioned. A quarter of the sample (24%) were within the correct range. Twenty percent said that the statutory maximum penalty for rape was 26 years or more. Included in this 26 years or more category were 1% who gave an answer of preventive detention, and 17% who reported that life imprisonment was the maximum number of years in prison that a judge could sentence a rapist to. It is possible that the detainees who responded with life imprisonment answered this question in the context of what they would like the maximum sentence to be, rather than what they believed it was currently.

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<sup>34</sup> The Crimes Act (1961) s 128b. However, The Crimes (Home Invasion) Amendment Act 1999 s 17A to s17E allows the courts to sentence a person to prison for a term not exceeding 25 years if they are found guilty of sexual violation, and the sentencing court is satisfied the offence involved home invasion. A person convicted of rape may also be sentenced to preventive detention – Criminal Justice Act (1985) s75.

**Figure 6.3** Detainees' knowledge of statutory maximum penalty for rape<sup>35</sup>



There were no significant differences between detainees' estimates of the statutory maximum penalty for rape based on demographic characteristics.

In terms of criminal history, only past convictions for fraud had any relationship with detainees' estimates of the maximum penalty for rape. Detainees who had been convicted of fraud in the past were more likely than those who did not have past convictions for fraud to underestimate the statutory maximum for rape (69% compared to 53%).

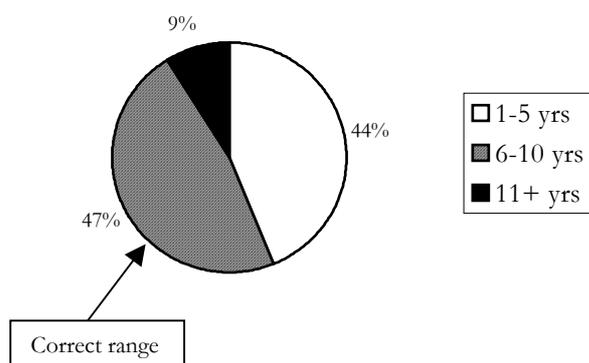
**Average sentence imposed for rape**

The second question in this series asked detainees to estimate the average number of years in prison a rapist would be sentenced to serve. The average sentence for rape in 1999 was 97.2 months or approximately eight years (Spier, 2000). Only 7% of the sample correctly estimated this figure. For the purposes of this analysis we accepted responses within a range either side of the correct answer, in this case 6-10 years, as being correct.

Figure 6.4 shows that nearly half the sample, 48% of detainees, correctly estimated how long, on average, a rapist would be sentenced to prison. Forty-three percent underestimated the length and indicated that the answer was between one and five years, while 9% overestimated and said that 11 years or more was the average sentence likely to be given to a person convicted of rape. The mean response was seven years.

<sup>35</sup> Question: What do you think is the maximum number of years in prison a judge can sentence a rapist to?

**Figure 6.4 Detainees' knowledge of average sentence for rape<sup>36</sup>**



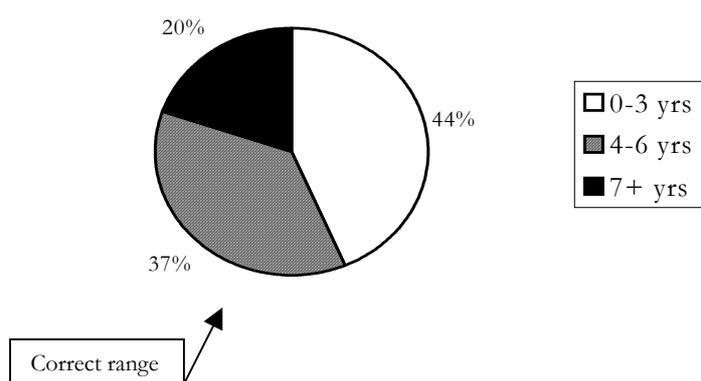
There were no significant differences between detainees in their responses to this question based on demographic factors or criminal history.

### Actual time in prison for rape

In the final question in this series we asked detainees how long they thought a rapist would actually serve in prison. We estimated that the correct response was approximately five years.<sup>37</sup> For the purpose of this analysis we accepted responses one year either side of five years (that is, four to six years) as being within the correct range.

Figure 6.5 shows that 37% of detainees gave an answer which fell into this correct range. More than two in five (44%) underestimated and 20% overestimated the number of years that a person convicted of rape would actually spend in prison. The mean response was just under five years.

**Figure 6.5 Detainees' knowledge of actual time spent in prison<sup>38</sup>**



<sup>36</sup> Question: If a rapist is sentenced to prison, how many years do you think he will be sentenced to on average?

<sup>37</sup> Serious violent offenders serve on average two-thirds of their sentence before being released. Therefore, given that rapists are sentenced to 97.2 months in prison on average, they would spend about 65 months or approximately five years in prison on average.

<sup>38</sup> Question: If a rapist is sentenced to prison, how many years do you think he will actually spend in prison on average?

There were no significant relationships between demographic factors or past sentences and convictions and detainees' knowledge about the actual time that a person convicted of rape would spend in prison.

We undertook further analysis to examine whether detainees understood that the actual time a rapist would spend in prison was less than the length of time to which they were sentenced. Analysis of the relationship between the average prison sentence for rape and the actual time spent in prison for rape showed that this was generally the case. Detainees who underestimated the average prison sentence also underestimated the actual time spent in prison. However, we also found that 11% of detainees indicated that the average sentence for a rapist was the same as the time they would actually spend in prison.

## **6.5 Offending while on bail**

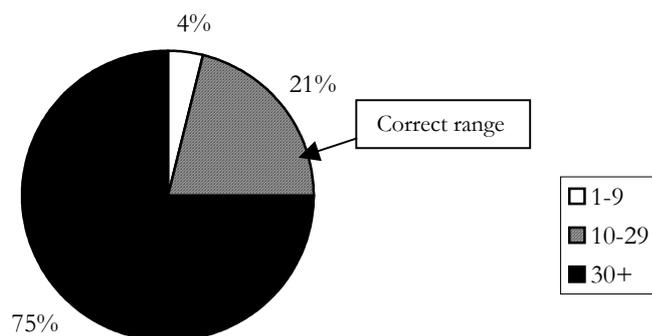
Most people charged with an offence are bailed or remanded at large if their case is not concluded at first appearance. We asked detainees to estimate the proportion of people who get caught for offending while on bail.

Research by the Ministry of Justice shows that around 20% of people who are remanded on bail until their case is heard are convicted of committing an offence while on bail. This varies only slightly from year to year and results from the latest study show that of those granted bail in 1997, 21% offended while on bail (Spier, 2000).

About one in ten respondents (9%) said that 20 out of every 100 people who are charged with an offence and remanded on bail get caught for offending while on bail. Again we classified detainees into various categories reflecting their degree of accuracy in estimating the rate of offending while on bail. We have regarded responses falling between 10 and 29 as being 'correct'. Other detainees were classified into two groups depending on whether they underestimated the rate of offending while on bail (1-9), or overestimated the rate (30+).

Figure 6.6 shows that three-quarters of detainees (75%) overestimated the rate of offending while on bail and one-fifth of detainees (21%) gave a response which was within the correct range (10-29). The mean response was 44 out of 100.

**Figure 6.6 Knowledge of offending while on bail<sup>39</sup>**



Further analysis revealed that ethnicity, rather than any other demographic variable, was significantly related to the way in which participants responded to this question. Māori detainees were much more likely (83%) than non-Māori (68%) to overestimate the proportion of people who offended while on bail.

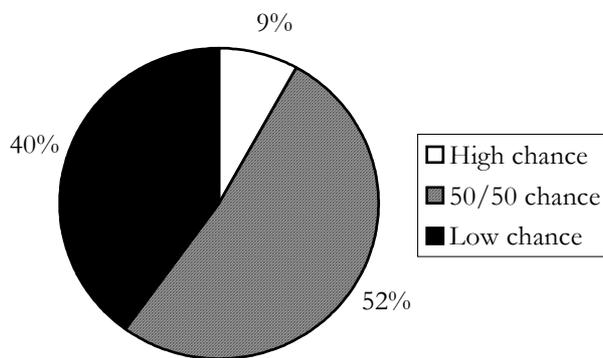
There were no significant differences between detainees' estimates of offending while on bail based on their past experiences of sentences. However, those who had past convictions for offending against justice were more likely to overestimate the rate of offending while on bail (83%) than those who had no prior convictions for this type of offending (71%).

## 6.6 Chances that a burglar would be caught by the police

The last question in this knowledge section focused on the extent to which participants believed that a burglar would be caught by the police. The detainees were asked to choose from three options: 'high chance', '50/50 chance' and 'low chance'. Police statistics show that for the year 2000, 15.8% of recorded burglaries in New Zealand were resolved.

Nine percent of the participants believed there would be a high chance of a burglar being caught by the police, 52% (199) believed there would be a 50/50 chance, and 40% (154) indicated there was a low chance (see the figure 6.7).

<sup>39</sup> Question: For every 100 people who are charged with an offence and remanded on bail until the case is heard, roughly what number do you think get caught for offending while on bail?

**Figure 6.7** Apprehensions for burglary<sup>40</sup>

Further analysis examining the relationship between demographic variables and detainees' responses revealed significant differences for two variables: age group and ethnicity. Older detainees (aged 30 and over) were considerably more likely than those aged 17 to 29 to believe that there was a low chance of a burglar being caught by the police (49% compared to 33%). Non-Māori participants were more likely than Māori to indicate there was a low chance of a burglar being caught by the police (47% compared to 33%).

The only past sentence which had any significant bearing on the detainees' responses to this question was reparation. Participants who had been sentenced to pay reparation in the past were less likely than those who had not to say that there was a low chance that a burglar would be caught by the police (34% compared to 46%).

Past convictions made no difference to detainees' responses to this question. In particular, detainees with past convictions for burglary were as likely as those who did not have burglary convictions to say that there was a high chance, a 50/50 chance or a low chance that a burglar would be caught by the police.

## 6.7 Summary

- The majority of detainees (76%) thought that the crime rate was increasing. Police statistics however, show that the crime rate has actually decreased in the last few years.
- Two-thirds of the detainees (68%) substantially overestimated the percentage of violent crime.
- Over half the sample, (56%) underestimated the maximum sentence for a rapist, and 24% correctly estimated this.

<sup>40</sup> Question: What are the chances that a burglar will be caught by the police?

- While 47% percent correctly estimated the average sentence for a rapist, a slightly lower proportion (44%) underestimated this figure.
- Thirty-seven percent of the sample correctly estimated the actual time that a rapist would spend in prison, and 44% underestimated the length of time.
- Three-quarters of the detainees substantially overestimated the proportion of people who get caught for offending while on bail. Māori and detainees with past convictions for offending against justice were more likely to overestimate the rate of offending while on bail.
- Burglars had a 50/50 chance of being caught, according to 52% of the participants. Forty percent believed there was a low chance, and 8% a high chance. Detainees aged 30 and over and non-Māori were more likely to say that there was a low chance of a burglar being caught by the police.

# 7 Detainees' experiences of fines

The detainees were asked several questions about their experiences of court-imposed fines during the 12 months prior to the interview.<sup>41</sup> We explained to the detainees that we were interested solely in hearing about fines which had been imposed by the courts, rather than fines relating to parking, speeding, warrants of fitness or car registration infringements. We also stressed that any reparation which the detainees may have been sentenced to pay should not be included in their responses.

## 7.1 Who was fined

The total number of cases which resulted in a fine in 1999 was 46,105.<sup>42</sup> This was 47% of the total convicted cases for 1999. The proportion of these cases which involved women and men was similar.

From the total sample of 387 detainees, 59% (229) said they had not received a court-imposed fine during the last year and 41% (157) said that they had (one participant did not respond to this question).

Younger detainees (aged 17–29 years) were more likely to have received a fine (50%) than those aged over 30 (28%). Those who did not have a partner and/or children were more likely to have received a fine (53%), than those who did have a partner or children (35%). Employment status was not related to whether or not the people in the sample had received a fine.

Detainees who had previously been sentenced to reparation (47%) or a fine (46%) were more likely to have received a fine in the last year, than those who had not received a monetary penalty in the past (34% reparation, 13% fine).

People with past convictions for traffic (43%), burglary (48%), theft offences (46%) and offences against good order (48%), were more likely to have received a fine in the last 12 months, than those with no convictions for these offences (28%, 36%, 35%, 35% respectively). There were no significant differences between detainees for other offences.

## 7.2 Amount of fine

Table 7.1 shows the amount of fine which those fined had been sentenced to pay. The mean was \$1178, and \$500 was the median.

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<sup>41</sup> If the participants said they had received a number of fines during the last 12 months, we asked them to think about the most recent fine they had received and to focus on that for the questions in this section.

<sup>42</sup> This does not include reparation.

**Table 7.1 Amount of fine**

	N	%
\$100 - \$499	68	45
\$500 - \$999	47	31
\$1,000 - \$9,999	32	21
\$10,000 or over	4	3
Total	151*	100

\* Data missing for six detainees.

None of the demographic variables had any significant association with the amount of fine received, nor did past sentences or previous convictions. Māori however, were slightly more likely than non-Māori to receive a fine under \$250.

### 7.3 Did you use your own money to pay the fine?

All of the detainees who said they had been fined in the last 12 months (157) were asked whether they had used their own money to pay the fine. Eighty-two percent said they had paid the fine with their own money. Three percent said they had not used their own money, and 15% indicated that the fine had not been paid. Two detainees did not respond to this question.

None of the demographic variables had any significant relationship with participants' responses to this question.

This same group of detainees (ie those who had been fined in the last 12 months) were also asked if anybody else had given them money to help them pay the fine. A very small number (13) said that they did get some help. Six people said money had come from other relatives, and five said their parents had given them money to help pay their fines.

### 7.4 Level of difficulty experienced in paying fine

Table 7.2 shows that 70% said they had lots (41%) or some difficulty (29%), and 30% indicated they had no difficulty paying their fine.

**Table 7.2 Level of difficulty experienced in paying fine**

	N	%
Lots of difficulty	61	41
Some difficulty	43	29
No difficulty	45	30
Total	149*	100

\* Data missing for eight people

None of the demographic variables had any significant relationship with the level of difficulty the participants had in paying their fine. Although not statistically significant, people who were unemployed were more likely to say they had 'lots of difficulty' (48%), compared to

those who were employed (35%). Those who were employed however, were more likely to say they had 'some difficulty' (33%) compared to those who were unemployed (25%).

## 7.5 Reasons why fine was difficult to pay

Ninety-nine participants described, in response to an open-ended question, why they had 'lots' or 'some' difficulty in paying their fine. Data was not recorded for five detainees.

Table 7.3 shows that being unemployed or on a benefit was the most frequently mentioned reason (52%). Thirty-nine percent said it was hard to make ends meet (ie for a variety of reasons a lack of money made paying the fine difficult), and 36% cited family responsibilities or other commitments.

**Table 7.3** Reasons why fine was difficult to pay

	N (n=99)	%
Unemployed or on benefit	51	52
Hard to make ends meet	39	39
Family responsibilities or other commitments	36	36
Couldn't spend money on other things	5	5
Seasonal or variable work	4	4
No income at all	4	4
Other	7	7

Note: Percentages may add up to more than 100 because some detainees gave more than one reason.

Some of the comments made about why it was difficult for the detainees to pay their fines included:<sup>43</sup>

- **unemployed or on benefit**

*Hard paying it while I was on the dole 'cos you don't get much on the dole.*

*I am a solo mum and on a benefit.*

*With the budget I'm on now, difficult to pay the fine. I only work three hours a week, and I'm on income support.*

*Unemployed at the time and paying child support. Only \$100 left. Board was \$90 so had to look for other small jobs to get some money.*

- **hard to make ends meet**

*I struggled financially to pay the fine. I'm not always guaranteed my pay.*

*It was very difficult to pay off the fine. I'd started a new job, but it was still difficult.*

<sup>43</sup> These are not direct quotes. See previous discussion in Chapter 2, Methodology.

*The fine made it difficult to make ends meet. Because things change all the time. For example, kids get sick, living standards change, and there are clothing needs. You end up making a lot of sacrifices.*

*I'm paying \$50 a fortnight and they won't lower it. It's a hell of a lot.*

- **family responsibilities or other commitments**

*The fine is not paid because there was no extra money in the family budget to pay for the fine.*

*I have four children and wife to support. I don't have enough money to pay for the fine.*

*I had the money and someone would come up and say the car needed registering, or new brakes, or new tyres. At the time transport was more important than paying the fine.*

*I had to look after two of my aunty's kids as well as my own and they needed Treasures and food.*

*I've got four debt collection agencies on to me. I only get bugger all.*

## 7.6 Summary

- 41% said they had received a court-imposed fine in the 12 months before the interview.
- Younger detainees and those without partners or children were more likely to have received a fine, as were those with previous sentences of reparation or a fine, and past convictions for traffic, burglary, theft and offences against good order.
- The fine was less than \$1000 for 76% of the detainees.
- 82% said they had used their own money to pay their fines, rather than being given money to help them do this. Only 8% received any help.
- 70% said they had lots or some difficulty in paying their fines.
- Half of the detainees (51%) said this difficulty existed because they were unemployed or on a benefit, 39% because it was hard to make ends meet, and 36% because of family responsibilities or other commitments.

# 8 Fairness of periodic detention and fines

## 8.1 Introduction

Previous studies have examined the issue of sentencing fairness. Some which have sought this type of information from offenders were conducted by McGinnis & Carlson (1981); Brown et al (1985); Morse & Lock (1988); Indermaur (1992); Indermaur (1994); and Allen & Treger (1994). Two of these studies (McGinnis & Carlson, 1981, and Brown et al, 1985) found that the majority of participants considered that their sentences were fair. Although the latter study focused on fines enforcement and the sample size was very small, 32 of the 37 people interviewed about the fairness of fines, said that their fine was fair (the five who thought their fine was not fair considered that they had been unfairly convicted). Two people also said when they were sentenced that they would have preferred periodic detention.

Indermaur (1992) however, discovered that 58% of respondents thought their sentence was not fair. A larger proportion (90%) also considered that overall the sentences which were handed down by the courts were not fair. Only 45% of the probationers interviewed in another study (Allen & Treger, 1994) agreed that their fine had a justice<sup>44</sup> perspective.

Other studies have examined the fairness of sentences from the point of view of the general public. One of these (Indermaur, 1990) asked the public about the fairness and consistency of sentences handed down by the courts. Eighty-seven percent of these participants thought that these sentences were 'not fair'. Further questioning revealed that public perceptions of 'unfairness' related to sentences being either too severe or too lenient.

Two sections in the questionnaire focused on the fairness of two specific sentences. We asked the detainees about the fairness of their periodic detention sentence which they were currently serving and, if they had received a court-imposed fine in the last 12 months, they were asked to comment on how fair they thought the fine was.

In addition, the detainees were asked to describe why they thought these two sentences were fair or unfair, where appropriate to select an alternative sentence, and to comment on why the alternative sentence would have been fairer.

Responses to the questions about the fairness of their periodic detention are described first, and the findings in relation to fairness of fines follow.

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<sup>44</sup> 'Seeks to promote equity, fairness, and reconciliation; focuses on the seriousness of the offense and the amount of harm done' (p35).

## 8.2 Fairness of periodic detention

All of the detainees were asked *Do you feel that the periodic detention which you are doing now is a fair sentence for the crime you committed?*

### 8.2.1 Periodic detention is fair

Seventy-six percent (291) said that their sentence was fair, 24% (92) thought it was not fair and four people declined to answer the question.

When the data was analysed by demographic factors, a higher proportion of men (79%) than women (60%) said that their periodic detention was fair for the offence they committed. No other demographic factors had any association with these responses.

Analysis was also undertaken to determine whether past offences and sentences had a significant association with detainees' perceptions of the fairness of their periodic detention. In terms of past offences, detainees who had been convicted of a traffic offence were significantly more likely, than those who had not, to say that their periodic detention was fair (79% and 64% respectively). No other findings were significant when analysed by past offences.

When past sentences were examined, those detainees who had been disqualified from driving were significantly more likely, than those who had not, to say that their periodic detention was fair (79% and 69% respectively). No other findings were significant when analysed by past sentences.

### 8.2.2 Reasons why periodic detention is fair

The detainees who thought their sentence was fair were asked, in an open-ended question, to explain why they thought this. One hundred and eighty-eight detainees gave just one reason, 82 gave two and 10 gave three (11 people did not respond to the question). All of these reasons have been grouped together and listed in Table 8.1.

This table shows that the most frequently mentioned reason as to why their sentence was fair was that it was better than prison or another sentence (36%). Most of these comments referred to periodic detention being better than prison, but this sentence was also mentioned as being preferable to a fine.

A quarter mentioned that the sentence fits the crime, 20% said that their sentence was less than expected, and 19% that the sentence was punishment for the crime. Some thought the periodic detention was fair because the sentence allowed for other commitments and some thought the sentence stopped re-offending.

**Table 8.1** Reasons why periodic detention sentence was fair

	N (n=280)	%
Better than prison or another sentence	102	36
Sentence fits the crime	72	26
Sentence less than expected	55	20
Punishment for the crime	54	19
Sentence allows for other commitments	25	9
Sentence stops re-offending	20	7
Offence was not serious or was first offence	16	6
Sentence gives back to the community	16	6
Sentence is OK to do	12	4
Other	8	3

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

Some of the comments made by the participants who said that their periodic detention sentence was fair included:

- **better than prison or another sentence**

*The alternative is a big fine or go to jail, so of the three it is probably the easiest.*

*PD is really good, it is better than prison.*

*For what I did, the next sentence after PD is jail. Can't see how prison helps you.*

*It beats looking from inside out, instead of going to jail.*

*Because I breached my PD and they gave me nine months extra. I am happy with this because I don't go to jail.*

*I've got other bills to pay, don't need to be paying other fines.*

*I could have been fined, but I wasn't. That would have hit me hard being on a low income.*

*I was relieved when my fines were replaced by PD. I had lost my job.*

- **sentence fits the crime**

*This set of PD is for breach of PD because I was pregnant. I wasn't sentenced to do a greater length of PD, but just the same amount as the PD I breached. I think that's fair.*

*Anything less than this six months PD wouldn't have had any impact on me. Anything more wouldn't have been fair.*

*Because what I did was burglary. I got suspended sentence and supervision and six months PD.*

*There were about nine charges of theft, one driving while disqualified, one intentional damage. Because of all these, it was fair.*

- **sentence less than expected**

*I was out of trouble for six years, but given my previous record, it was lenient. I thought I was going to jail. It cost me a bit in lawyers' fees but it was worth it.*

*I was expecting a harsher sentence. I was expecting jail.*

*There were so many charges, I got off pretty light.*

*I haven't done PD for 10 years. It was a jailable offence.*

*By rights, I should have gone to prison this time.*

- **punishment for the crime**

*It was a stupid offence and I am now paying for it.*

*I broke the law and I have to pay the penalty.*

*It was an inappropriate thing that I did.*

*I shouldn't have done what I did, so I deserved what I got.*

- **sentence allows for other commitments**

*It keeps me with my family. I'm a lot more mature now and realise my responsibilities.*

*I have a wife and family. Wife has a good job and prison would have changed all that for the worst. She would have lost her job.*

*I've got to feed and support my family. I would lose my job if I had gone to jail. I look after my elderly mother whilst on PD.*

*If I was in jail my wife would have to go on a benefit. If I'm able to do PD I can still work.*

### **8.2.3 Periodic detention is not fair**

Twenty-four percent (92) of detainees said that their periodic detention sentence was not fair.

### 8.2.4 Reasons why periodic detention is not fair

All of the people who said their periodic detention was not fair, apart from one, gave a reason as to why they thought this. Twenty of these detainees also gave a second reason. Table 8.2 is a summary of all of the reasons given by this group of detainees.

**Table 8.2 Why periodic detention sentence was not fair**

	N (n=91)	%
Sentence too punitive	42	46
Unfairly accused	22	24
Offence not serious	14	15
Sentence doesn't allow for other commitments	6	7
Sentence too light	5	5
Sentence doesn't stop re-offending	5	5
Cannabis should not be a crime	4	4
Other	13	14

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

The most commonly reported reason why their periodic detention was not fair was that the sentence was too punitive (46%). These detainees frequently commented that they believed their sentence was inequitable or unfair, either in relation to what they had been previously sentenced to for similar offences, or by comparing their sentence with what others had received.

Twenty-four percent said their sentence was not fair because they had been unfairly accused. These detainees frequently believed that they not done anything wrong, or that there were good reasons for their actions. Fifteen percent said that the periodic detention sentence was not fair because the offence was not serious enough to warrant this sentence. Other less frequently mentioned reasons included the periodic detention was not fair because the sentence was not punitive, it did not stop re-offending and it did not allow for other commitments.

When demographic factors were examined, women were significantly more likely (40%) to report that their periodic detention was not fair compared to men (21%). All but one woman said that the sentence was unfair because they should have received a lighter sentence or that there were inconsistencies in the way that they had been sentenced. These are some of their comments:

*Because I missed one day of PD. I thought I had finished but when I realised I hadn't finished I came in and was breached.*

*Because my co-offender did the same thing and she got a \$500 fine, and she's paying it off at \$10 a week.*

*They reckoned I did a burglary but I didn't, so it got dropped to receiving. I shouldn't have got seven months.*

*Another person who did a crime more serious than me got a shorter term of PD.*

Some of the comments made by the detainees as to why their periodic detention was not fair included:

- **sentence too punitive**

*Seven months PD for \$1800 fine. Another person was fined \$5000 with two months PD. How do they work that out?*

*My partner got his fines included in his sentence, and he got six months PD. I got six months PD without fines included, for the same crime.*

*Cos I know people who did way more than I did and they just got a small sentence. The judge was not happy with me that day.*

*My first charge under drugs charge. Others charged with the same thing got less tough sentences. Others charged with more serious crimes than me as well.*

*For two seconds of fun I'm doing three months slave work for free. My friend not doing PD. He did same thing; he paid his fine and that's it.*

*Because it was my first offence. I was only the driver and didn't know. I didn't want to appeal in case I got more.*

*My vehicle was confiscated (vehicle worth \$9000). I feel that the PD I am doing should have been enough or the sentence on PD reduced.*

- **unfairly accused**

*If it's your first offence they should give you diversion and pay money to a charity, and no record. The second time to pay a fine. It was self-defence. I was protecting myself.*

*I was driving while disqualified and I was driving the missus to hospital to have a baby. I still got charged even though it was an emergency.*

*Because I didn't do anything wrong.*

*Because really I hadn't done a criminal act, just traffic fines.*

*I was in the wrong place at the wrong time. It's not fair that I have to do PD for something I never did.*

*Because I was charged for assault, but I did not assault the guy. I reckon it's not fair.*

*Because I was protecting my brother in self-defence.*

- **offence not serious**

*There was nobody hurt, apologies were given and I co-operated with the police and the victims.*

*There was not much damage done. The building was unlocked and abandoned.*

- **sentence doesn't allow for other commitments**

*It limits my earning capacity.*

*My family and job are suffering.*

*PD keeps me away from my family.*

### **8.2.5 What sentence would be fairer than periodic detention?**

The 92 detainees who reported that their periodic detention was unfair, were asked *What sentence do you think would have been fairer?* and requested to select an alternative sentence from Showcard 4 (Appendix 3).

While most detainees selected one sentence only as being fairer than their current sentence of periodic detention, a small proportion (12%) mentioned a combination of sentences (two detainees declined to answer this question).

Table 8.3 summarises all of the responses given, and shows that a fine was the sentence most frequently mentioned as being fairer than periodic detention (27%). A shorter time on periodic detention was the next most commonly mentioned alternative sentence (16%), followed by community service (14%). Other alternatives included no penalty (11%), community programme (9%) and supervision (9%).

Employed detainees were slightly more likely to think that a fine would be fairer than those who were unemployed.

**Table 8.3 Fairer sentence than periodic detention**

	N (n=90)	%
Fine	24	27
Shorter time on periodic detention	14	16
Community service	13	14
No penalty	10	11
Community programme	8	9
Supervision	8	9
Suspended sentence	7	8
Warning	7	8
Prison sentence less than a year	6	7
Disqualified from driving	4	4
Reparation	1	1

Note: Percentages may add up to more than 100 because the detainees could give more than one alternative.

### 8.2.6 Why another sentence fairer than periodic detention?

The detainees who had selected an alternative sentence were asked to explain why they thought this sentence was fairer.

**Table 8.4 Reasons why another sentence fairer than periodic detention**

	N (n=90)	%
Sentence is better fit for the crime	17	19
Sentence more rehabilitative	15	17
Sentence allows for other commitments	12	13
Offence not serious	11	12
Unfairly accused	9	10
Sentence is more convenient	9	10
Should get lighter sentence for first offence	6	7
Sentence gives back to the community	5	6
Other	15	17

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

As table 8.4 shows, a wide range of responses were given when detainees explained why the alternative sentence they had selected would have been fairer. For instance, 19% said the alternative sentence was a better fit for the crime, 17% said the alternative was more rehabilitative, and 12% commented that periodic detention allowed time for other commitments.

Some of the comments (preceded by the alternative sentence) made by the detainees who answered this question included:

- **sentence is better fit for the crime**

(Fine) *A fine would have hurt me a lot more than doing PD, although this is committed time out of each week.*

(Periodic Detention) *I feel that the PD sentence should be for two months instead of four months, in view of the crime committed.*

(Community Service) *It was not a violent offence.*

- **sentence more rehabilitative**

(Community programme) *A course on shoplifting, I want to know why I do it.*

(Supervision) *Where I learned something like first aid, cooking or rehabilitation.*

(Fine, Community Programme) *Because of alcohol problems. I have only offended because of alcohol.*

(Community service with supervision) *I think that would have helped me go through alcohol and drug rehab.*

- **sentence allows for other commitments**

(Suspended Prison sentence) *It would have enabled me to have carried on working. Something that would have been a deterrent.*

(Fine, Community Programme) *Because of my work.*

(Fine) *Because of the 17 days I have been doing PD, I have lost \$100 because I am absent from work.*

- **offence not serious**

(No penalty at all) *I don't think it was much of a crime.*

(No penalty at all) *Because I didn't do anything wrong.*

(Fine, Community Programme) *I didn't think it was a PD offence.*

A few detainees, two of whom were women, thought a prison sentence of less than a year would have been fairer as they thought that this was easier than periodic detention. These are some of their comments.

(Imprisonment less than one year) *Easier than PD.*

(Imprisonment of less than a year) *Should have given me three months jail cos then I wouldn't have to be in custody for one day a week.*

### 8.3 Fairness of fines

From the total sample of 387 detainees, 157 (41%) reported that they had been sentenced to a court-imposed fine during the last year, and 59% (229) said they had not (one participant did not respond to this question). Of those who had been fined, 132 (85%) were male and 24 (15%) were female.

Detainees who had received a court-imposed fine in the last year were asked whether they thought their fine was a fair sentence for the offence they had committed.

Responses were evenly split when detainees were asked this question. Fifty percent said that their fine was fair, and 50% said that it was not fair. Two detainees did not respond to this question.

Demographic factors, past sentences or past offences had no significant relationship with how people felt about the fairness of their fine.

The reasons as to why a fine was fair will be described first, and this will be followed by the detainees' views on why their fine was not fair.

#### 8.3.1 Why fine was fair

Participants who indicated that their fine was fair were asked to give a reason, or reasons, why they thought this. Sixty-eight gave one or more reasons and nine declined to respond to this question. All of these reasons have been grouped together and listed in Table 8.5.

Table 8.5 shows that the most frequent reason given as to why the fine was fair was that it was punishment for the crime they had committed (43%). A quarter said the sentence fitted the crime, 18% the sentence was less than they expected and 13% said a fine was better than another sentence.

**Table 8.5** Reasons why fine was fair

	N (n=68)	%
Punishment for the crime	29	43
Sentence fits the crime	18	26
Sentence less than expected	12	18
Better than another sentence	9	13
Able to pay fine	4	6
Offence not serious	2	3
Other	6	9

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

Some of the comments made by participants who said their fine was fair included:

- **punishment for the crime**

*It was fair because I paid back the person as well as the fine which was a punishment.*

*I was drunk and disorderly and annoying people.*

*Taught me a lesson. I have got to pay the price for something I have done wrong.*

- **sentence fits the crime**

*It's a fair sentence for the charges. The amount of fine is OK for the offence.*

*I don't have a criminal record, so I was happy with the fine.*

*Because I was a minor party in the crime.*

- **sentence less than expected**

*I reckon I got off pretty light.*

*The sentence could have been worse.*

*Probably could have been a wee bit more, but I was happy with it.*

- **better than another sentence**

*Because I would rather get fined than more PD. I also don't want to go inside. It doesn't help you.*

*I'm working full-time and see that paying a fine, although it taxes my income because of other financial responsibilities, it is less painful than a prison sentence.*

### **8.3.2 Why fine was not fair**

The detainees who reported that their fine was not fair for the offence they had committed, were asked to explain why their fine was not fair. All but one detainee responded to this question.

Table 8.6 shows that over half said their fine was not fair because the sentence was too punitive (58%). This category includes a range of comments, about being unemployed or other personal circumstances, or that the sentence was too harsh for the offence committed. A number of detainees also mentioned that they had received sentences in addition to the fine, including periodic detention or a driving disqualification.

**Table 8.6 Reasons why fine was not fair**

	N (n=77)	%
Sentence too punitive	45	58
Unable to pay the fine	14	18
Unfairly accused	12	16
Didn't realise it was an offence	5	6
Fine does not stop offending / not rehabilitative	1	1
Other	13	17

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

Eighteen percent said the fine was not fair because they were unable to pay it and 16% believed they had been unfairly accused. This latter category includes comments which frequently referred to the fact that the detainees believed they had not done anything wrong, or that there were reasons why they had acted in a particular way.

Some of the comments made by the detainees who said that their fine was not fair included:

- **sentence too punitive**

*Because I've got to do PD with it as well. The sentence is too hard for the offence.*

*Because it was only a little bit of cannabis. The fine was three times the amount it was worth, and I got PD and a suspended sentence.*

*Far too much money for a person who is unemployed.*

*Because I am doing PD and a fine, plus 15 months disqualification. I don't think that's right. It was my first offence too.*

*Everyone else with a similar case only received \$500 - \$600 fine. Even policemen I have spoken to have said it was excessive.*

*The crime was not worth being charged \$1000 fine.*

*Also got two months PD as well as the fine.*

- **unable to pay the fine**

*I'm on an invalid benefit, and finding it very hard to maintain an ordinary lifestyle.*

*I've got to pay \$100 before time payments are allowed. I've got other bills to pay.*

*I had a hard time paying it back. My job was threatened and then lost. I negotiated the fine over to PD.*

- **unfairly accused**

*Because it wasn't my fault.*

*Because they didn't listen to my side of the story.*

*Because I didn't do the burglary.*

### 8.3.3 What sentence would be fairer than a fine?

Detainees who thought a fine was not fair (78) for the offence they had committed, were asked to select an alternative sentence from Showcard 4 (Appendix 3) which they thought would have been fairer. While most detainees selected one sentence only as being fairer than their current fine, a small proportion (16%) mentioned a combination of sentences (three detainees declined to answer this question).

Table 8.7 shows that the sentence which was mentioned the most often as being fairer than a fine was a warning (25%). Twenty-three percent said community service would have been fairer, 21% periodic detention and 16% a fine for a lesser amount.

**Table 8.7 Fairer sentence than fine**

	N (n=75)	%
Warning	19	25
Community service	17	23
Periodic detention	16	21
Fine for a lesser amount	12	16
Community programme	6	8
Supervision	6	8
Reparation	4	5
No penalty at all	3	4
Disqualified from driving	2	3
Life imprisonment	1	1
Imprisonment between 1 and 5 years	1	1

Note: Percentages may add up to more than 100 because the detainees could select more than one alternative sentence.

### 8.3.4 Why another sentence fairer than a fine?

As well as being asked to select an alternative sentence which would have been fairer than their fine, the detainees were asked to explain the reason or reasons why they thought another sentence would have been fairer.

Table 8.8 shows that offence not serious (24%), financial circumstances/difficulties (21%), and unfairly accused (14%) were the most frequently mentioned reasons as to why another sentence would have been fairer than the fine. Comments included in the 'unfairly accused' category frequently related to the detainees not believing they had done anything wrong, or that there were reasons why they had acted in a particular way.

**Table 8.8 Reasons why alternative sentence fairer than fine**

	N (n=72)	%
Offence not serious	17	24
Financial circumstances/difficulties	15	21
Unfairly accused	10	14
Alternative sentence more rehabilitative	7	10
Sentence gives back to the community	6	8
Family responsibilities	6	8
First offence	6	8
Other	10	14

Note: Percentages may add up to more than 100 because detainees could give more than one reason.

Some of their comments, preceded by the alternative sentence, included:

- **offence not serious**

(Community service) *It wasn't a bad crime, I didn't hurt anyone.*

(Reparation) *The goods were not worth much.*

(No penalty at all) *If the police didn't waste so much time chasing people smoking cannabis, they would save a lot more time and money.*

- **financial circumstances/difficulties**

(Community service) *Because I am working for six days a week and I need money to support my family. If I got PD only and no fine, it would be OK because I would save money to support my family.*

(Community service) *I am married with three kids and the money would be better off staying in the family than going to the government.*

(Imprisonment of less than a year) *At the moment I don't have enough money to be a decent person, I can't do anything.*

- **unfairly accused**

(Reparation) *I didn't steal any of the stuff. I gave it back to her the next day.*

(Warning) *Because they did not listen to my side of the story. The guy that I hit made up half the story.*

### **8.3.5 Summary**

#### **Periodic detention**

- Seventy-six percent of the detainees thought that their periodic detention sentence was fair for the crime they had committed.
- The most common reason given for periodic detention being fair was that this sentence was a better alternative than prison or another sentence.
- The quarter who said their periodic detention was not fair, indicated that this was because they thought the periodic detention sentence was too punitive.

#### **Fine**

- Half of those who had been fined thought their fine was fair, and half thought it was not fair.
- Reasons as to why a fine was fair included it was punishment for the crime, the sentence fitted the crime, and the sentence was less than they had expected.
- Reasons why a fine was not fair included the sentence was too punitive, they were unable to pay the fine, and they had been unfairly accused.



# 9 General comments

At the end of the interview we asked the detainees, the open-ended question – *‘Is there anything else you’d like to say about the things we’ve just talked about?’*

Their comments, which form the basis of this chapter, show that the detainees remarked on a wide range of issues in response to this question. While their own periodic detention sentence and periodic detention in general were popular topics, prison, the leniency or harshness of current sentences, and Māori and the criminal justice system were also commented on by the respondents. The detainees were not asked specifically about each of these issues, so their comments should not therefore be regarded as representative of the sample. Rather, they reflect the issues that were important for those who chose to respond to this question.

## 9.1 Periodic detention

Not surprisingly perhaps, a considerable number of detainees took the opportunity to express their views about periodic detention and some of the conditions relating to this sentence. These comments are typical of those made about the food which was provided to the detainees while they were doing periodic detention.

*Better food and more substantial for the heavier work. Food is bad on PD. You can’t work on the sandwiches.*

*The food at PD, baked beans, is not good enough. Used to be boil ups. I prefer a boil up to baked beans. I like meat products.*

*Should change the PD lunches, get same thing week after week. It’s very hard to do a hard days work on a couple of sandwiches and a cup of tea. Need good fuel to do good work, full tank of gas.*

Other remarks, some favourable and some not, focused on other issues relating to periodic detention, such as staff, the periodic detention work environment, and others related to how the detainees felt in general about doing this sentence.

A few had generally positive things to say about the periodic detention staff, for example:

*The bosses upstairs are very fair in what they give us, and are understanding.*

*The wardens are choice.*

*PD wardens wave their magic wand around, and some are unfair. They pick on you. Some of the others are OK.*

Others however were less well disposed to the staff at the periodic detention centres, and commented:

*Some PD bosses are arseholes. They show favouritism. Should treat everyone equal. I wasn't impressed with the people here about their response (to this particular situation). No allowance being made for that.*

*Probation officers can be a joke. One said 'Don't come in here with your problems'. Well what am I meant to do.*

Their periodic detention sentence also produced comments of a more general nature. Some detainees, for example, thought that their sentence was useful, and the following comments are typical of these views.

*Good PD work environment. Mutual respect between PD workers and supervisors. Do a lot for the community and community appreciate their work.*

*PD is beneficial and you get a buzz doing something for the community. PD makes you think about what you've done.*

*I personally feel that PD is a very good alternative to going to jail. If the crime does warrant PD. You're making your own contribution back to the community and not being a burden on the taxpayer.*

*PD is quite a constructive sentence as do a lot of good for the community. Put a lot of positive energy back in to the community.*

Others however had less favourable comments to make about their sentence, and suggested what changes they would like to see. These are some of their comments.

*At PD we get given the wrong tools for the wrong jobs. Don't supply appropriate tools as they say in the contract.*

*PD is a bit harsh here. You have to take out your earrings and stuff. If it's raining you still have to go out and work.*

*Each PD has different set of rules. Each should have same rules. Pointless rule at PD is no roll-your-own smokes, because could roll in marijuana. If somebody wanted to, they could empty the tobacco from the cigarette and replace with marijuana. Training was lacking in regards to work safety, eg clearing work with machetes/slashers.*

*With the summers we've been having I've been noticing the lack of shade. The amount of work is a bit over the top. Maybe give a 5 or 10 minute break after lunch. Maybe a break in the afternoon. More training on various machines. More projects to work on. I think we should be doing things like tickets (like horticultural tickets) and a lot of these guys wouldn't come back. Should be giving people skills.*

*For first offenders on PD, would be good if time on PD could be shortened for good behaviour. I think a month could be taken off my six month sentence. I work hard, I'm on time, it's my first offence. Like what happens with prison sentences. PD can be good if it is hard work.*

*The standard of PD sucks. The fairness between gangs isn't very good. What they do to people who are late isn't good. They should get breached unless they have a legit reason and can prove what they are saying.*

*The people doing community service should be doing PD, and people on PD should have access to programmes rather than having to go to prison to do them. Provide programmes within PD, like violence and alcohol, to deal with drug and alcohol. If PD offer programmes, they should involve families to get to the root of the problem. PD affects job opportunities. There should be more programmes.*

*PD isn't constructive. It isn't constructive and satisfying. It's designed to fill in the day. Whereas community service has the scope to be constructive. Like using the detainees' skills to benefit the community.*

*PD is pretty sweet. I don't think it helps people. It is pointless sending people to somewhere where criminals get together because they talk about crimes they've committed and easily influenced people will go and give it a try, to make money.*

## 9.2 Prison

Prison was the focus of a considerable number of the remarks made by the detainees. Some of this group commented that prison encourages criminal behaviour and does not rehabilitate people. For example:

*Best to sentence people to something where they're going to learn something. Prison is educational facility to become better criminal.*

*Prison doesn't help. It's meant to rehabilitate, but it's just locking people up. Jail makes us want to go and do crime because f... all jobs. Jail's not helping me. I've been in homes or jail since I was 13. There are no programmes. They're the same old dumb, boring programmes you've done for the last three lags. Need more programmes, more jobs and fair pay, so we don't have to resort to crime. Need programmes which will teach us how to keep out of trouble.*

*Sending people to prison doesn't help. Because when they get out they are just as bad. They learn about more crime inside. A prison sentence would be a suicide mission. People need to be given the tools to help themselves instead of prison sentences.*

Other detainees also talked about the effect that a prison sentence had on their families.

*Quite hard getting moved down the line without a choice. It's a long distance for families to visit. It's quite hard if you're on a budget for children to get down there.*

*Prison sentences have an effect on families, especially married couples with children. Must be a better way.*

*Lot of fellows I know get into trouble again within week of getting out, because only get \$350.00. Families are paying for it. Person has to find money to support families. \$350 doesn't go far, back to crime.*

Some of the more general comments included:

*People shouldn't go to prison for minor offences and not for unpaid fines. They associate with hardened criminals. Bad things rub off on you and you come out worse than when you went in. Prison costs lots and you come out bad and do more bad things.*

*Prison for three months is harder than prison for 6 - 12 months. Because you are there for a short time and people treat you real bad and with no respect.*

### 9.3 Sentencing

The detainees made a lot of comments about the length of sentences currently being handed down by the courts. Some thought that sentences given to people convicted of rape and other violent offenders, for example, were too light and these are some of their views.

*Life-threatening crime and large money theft, violent and sexual offences should be dealt with more severely. Tougher sentences on child sex offenders and for home invasions.*

*Most of sentences given out are way too light, particularly violent offences and rape. These people should be in jail for the rest of their lives.*

*I think some sentences are too lenient. I got brought up with the phrase 'an eye for an eye', and you don't really see that these days. I think this should be enforced like capital punishment. Like a rapist should do the maximum penalty because that's a violation of the human body. For murder you get life imprisonment but only 10-12 years. I don't see the point of giving them life if they aren't going to do it.*

*Chuck all the rapists on an island and leave them there. Rapists and murderers deserve what they get. They should go to jail, but little lagers (eg disqualified drivers) should not go to jail.*

Some detainees particularly commented on the sentences given to white collar criminals, and these included:

*White collar criminals. They don't get the same treatment as Māori people and PI people. Should be an equal justice system for all, no matter how rich you are, or how much money you've got.*

*A lot of white-collar crime should get punished more severely as they get let off too softly. The American that got off the drug charge should have got PD. Should do the same sentence, not just pay off officials and sneak out the back door.*

Other detainees however thought that sentences were too tough and these comments are typical of those made by this group:

*Cut down on sentences they give people. Should be lighter sentences for the crimes they do.*

*Driving laws are too heavy-handed. Very expensive.*

*Driving offences should be lower. Sentencing in my case was unfair in comparison with person prior to me.*

*People shouldn't be punished more than once for the same crime/offence. They should take in to account personal circumstances before they pass sentence. Look at how they go about stopping re-offending, eg programmes.*

## 9.4 Māori and the criminal justice system

The experience of Māori with the criminal justice system was remarked upon by a few detainees, and these are some of their comments:

*Why isn't Marae justice on showcard? Is the Justice Dept helping the system find out how Māori feel? Who do they get the information from? Answering the broader picture. Programmes offered in prison should be offered in PD centres and expand the role of Māori organisations, rehabilitate Māori. In prisons you have to eat, sleep and teko in your cell, which is against tikanga Māori. You're told to compromise. You can't compromise tikanga Māori. Māori committee is valuable in prison. Need to shed ourselves of English custom.*

*Marae-based justice needs to be another alternative to prison. Government need to give more funding to Māori initiatives, eg health, education, housing. Also our prisons are over-represented by Māori and Pacific Island people. Māori people need to be treated as equal partners in the Treaty and given their own autonomy. Way too many Māori are imprisoned.*

## 9.5 Other comments

Some of the remarks which related to drugs were:

*I'm pro for decriminalisation of marijuana. Drug laws are too harsh.*

*As a result of a serious motor vehicle accident, now on an invalid benefit. The medication made me addicted to morphine which ruled my life. Marijuana was a better substitute for the medication than being addicted.*

*Little bit too hard on drug offending, especially if it's your first charge.*

The police were the focus of two detainees' comments. This is what they said:

*If there was work the crime rate would drop. Police would then lose a lot of their jobs. They get away with a lot of stuff which is wrong. Police should stop egging people on to make them assault them. Police should treat people more respectfully. If police commit a crime they should be charged like the rest of us (eg police who hit a three-year-old on a pedestrian crossing). Police should be setting a good example.*

*Police need to address the cause of the crime rather than the ambulance at the bottom of the cliff. Looking at why people behave that way, nip it in the bud before it goes further. Preventative policing. More cops doing higher-quality policing, different types of policing, more cops in the community talking to kids etc, not more front-line cops. Police spend too much time looking for drug dealers, rather than other important things. They're out there looking for tinnies.*

### **General comments about the wider criminal justice system included:**

*I think it depends on how good your lawyer is and how good they are at spinning yarns, as to whether justice is done.*

*I found the court procedure time-consuming. I would like my case heard in court to get it over and done with as quickly as possible.*

*I went to court for an offence and it still hasn't been finalised. Makes it difficult to get on with my life with that hanging around. Judges should focus on the circumstances because you don't know what's going on.*

*Government shut down mental institutions and let them in to community under community supervision. These people eventually become murderers, rapists etc. There should be improvement made in this area. Counselling and Probation Service should be encouraged.*

### **A number of the detainees however made some positive comments, and remarked:**

*Just good to have this programme. I feel sorry for hurting the people I stole off. Thanks for coming to talk to us.*

*I found this project and interview interesting. If it helps the Ministry review the law, it would be a worthwhile project to be involved in. It is worth the effort to come here.*

*The anger management course I did a few years back was the best thing I did in my life. One of the best skills I learnt in my life.*

*About time something is being done about the criminal justice system.*

*Should have a few more surveys.*

*Good idea to have this survey.*

## 9.6 Summary

In summary, the detainees expressed their views about many issues when they were asked *Is there anything else you'd like to say about the things we've just talked about?* Some of this comment related to how they felt about their periodic detention sentence, and in particular some of the conditions which were part of their sentence. A significant number of detainees however, also talked about other issues which were of concern to them, such as prison, the sentences which were currently being handed down by the courts, as well as Māori and the criminal justice system. It was also encouraging to hear some positive comments not only about the sentences which the detainees had received, but also about this project.



# 10 Conclusion

## 10.1 Introduction

This is the first occasion in which a large sample of periodic detention detainees have been asked their views on crime and sentencing in New Zealand. The study was undertaken prior to major sentencing reform in New Zealand, with the sentencing framework as set out in the Criminal Justice Act 1985 replaced by provisions of the Sentencing Act 2002. This framework includes sentencing purposes and principles and will guide the courts as to what type of sanction is appropriate in various circumstances.

The overall aim of the research was to assess offenders' attitudes towards and knowledge about crime and sentencing. More specifically, we wanted to assess offenders' perceptions of sentencing practice; purposes of sentencing; appropriateness of sentencing; relative sentence severity; sentences they had experienced; and fines in comparison with other sentences. In this final chapter we set out the salient findings of the survey and discuss their implications.

It is worth emphasising again that this study only interviewed people currently serving a sentence of periodic detention. While these offenders are likely to have experienced a wide range of sentences, the results cannot necessarily be considered to be representative of the offender population in general. It was also not our intention to examine the effectiveness of periodic detention as a sentence, although many comments from detainees were naturally around the conditions relating to their sentence.

## 10.2 Perceptions of sentences

### Relative sentence severity

New Zealand's parliamentary statutes set out maximum penalties in the same statutes which establish the offences. Maximum penalties are usually expressed in terms of finite periods of imprisonment and/or fines. Prison is generally considered to be the sentence of 'last resort', to be used for serious offenders, where the protection of the community requires it. The Criminal Justice Act 1985<sup>45</sup> sets out a number of other sentences and orders which the courts may impose as an alternative to imprisonment for any offence which is punishable by imprisonment. Community-based sentences<sup>46</sup> are served in the community and involve an

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<sup>45</sup> The sentencing framework as set out in the Criminal Justice Act 1985 was replaced by provisions of the Sentencing Act which came into force on 30 June 2002. Significant changes to community-based sentences were enacted, effectively involving a merger of periodic detention with community service in a new sentence called Community Work.

<sup>46</sup> Community-based sentences are outlined in Part III of the Criminal Justice Act 1985.

element of supervision by the Community Probation Service. In New Zealand there are currently four community-based sentences – periodic detention,<sup>47</sup> community service,<sup>48</sup> supervision<sup>49</sup> and community programme.<sup>50</sup> Other sentences or orders include discharge, deferment, reparation and suspended prison sentences.<sup>51</sup>

The New Zealand courts have generally regarded periodic detention as the most severe sentence available short of a custodial one (Ministry of Justice, 1999). The courts have viewed community service as ranking below periodic detention in severity, but community service is still seen to have a deterrent or denunciatory purpose. Supervision and community programme are generally seen by the courts to be principally rehabilitative in purpose rather than punitive.

We asked detainees to rank a number of sentences in terms of how tough they would find them. These sentences included various terms of imprisonment, community-based sentences, fines and a suspended prison sentence. These results must be approached with caution. The ranking task is well established but a relatively crude exercise since it does not take into account a wide number of factors, including that sentences have different purposes, are imposed in different circumstances for different lengths and amounts.

Prison sentences, particularly longer terms of imprisonment were rated as being the toughest of all the sentences. However, consistent with overseas research, we also found that a significant minority of offenders would prefer to serve a short custodial sentence than either a fine or a sentence of periodic detention. Employment status was the only demographic variable which was consistently related to how sentences were perceived (although it is possible that our sample size was not sufficiently large to allow statistical modelling to account for other demographic differences between detainees). Detainees who were unemployed were considerably more likely to rank all fines (\$200, \$500, \$1,000) as being tougher than detainees who were employed, and unemployed detainees were considerably more likely to say that they would find it easier to go to prison for three months than to pay a \$1,000 fine.

Past experience of more punitive sentences (particularly prison and to a lesser extent periodic detention) was significantly related to perceptions of both fines and prison terms. People who had previously spent time in prison were more likely than those who had not to perceive fines as being more punitive. For example, they were considerably more likely to say that they would prefer to go to prison for three months than pay a \$1,000 fine.

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<sup>47</sup> Periodic detention can be imposed on persons aged 15 years or older for a maximum term of 12 months and requires the offender to report to a periodic detention centre for up to 18 hours per week.

<sup>48</sup> Community Service requires an offender to undertake a community service for a period of between 20 and 200 hours.

<sup>49</sup> Supervision is for a period of between six months and two years and the standard conditions of this sentence place an offender under the supervision of a probation officer. The offender may also have to undertake various programmes.

<sup>50</sup> Community programme requires the offender to undergo a programme, which if it is residential must not exceed six months and if non-residential must not exceed 12 months.

<sup>51</sup> Prison sentences of not less than six months and not more than two years can be suspended for a period not exceeding two years. Criminal Justice Amendment Act 1993.

Detainees were least consistent in their ranking of a suspended sentence of imprisonment, with some stating that a suspended sentence was very easy and others that it was very tough. This may partly be accounted for by some confusion as to what a suspended prison sentence entailed, despite explanation by interviewers. Demographic factors or criminal history did not appear to have an impact on the relative ranking of either a suspended prison sentence or community-based sentences.

The findings clearly show that in the mind of the majority of detainees, a prison sentence is more punitive than community-based sentences or fines, with the exception of a significant minority of unemployed and those who had previously spent time in prison. It is likely though that these two factors are correlated – those who are unemployed were slightly more likely to have spent time in prison.

### **Purposes of sentences**

Sentencing purposes are the general justifications for the types of sentences that are imposed on offenders. They represent varying philosophical approaches to punishment and are usually listed as retribution, denunciation, deterrence, incapacitation, rehabilitation and restitution. Two of these purposes, deterrence (to discourage the offender from further offending and society at large from committing the offence) and rehabilitation (to reduce offending by helping to change behaviour) are perhaps the most widely considered when imposing sentences. Detainees were asked to consider five sentences in the light of these two purposes. These five sentences were a fine of \$500, 12 months supervision, 100 hours of community service, four months periodic detention and prison for six months.

Detainees felt that a prison sentence for six months was much more likely to both stop further offending and to help them make changes to their lives than any of the other sentences - a perception which is at odds with evidence of reconviction rates. A fine was considered to be the least deterrent and the least rehabilitative of all the sentences. Supervision for 12 months was generally perceived as having more of a rehabilitative effect than a deterrent effect, which is in line with how the sentence is currently viewed by the courts.

Reconviction rates clearly show that offenders sentenced to a term of imprisonment have the highest reconviction rate and those sentenced to a monetary penalty the lowest (Ministry of Justice 1999). However, re-offending is influenced more by other factors than by the sentence. Factors closely associated with reconviction are age, gender, ethnicity and criminal history (Lloyd, Mair and Hough, 1994; Triggs, 1999). The fact that for example, community service has a significantly lower reconviction rate than other community-based sentences is accounted for by the type of offenders receiving the sentence rather than the type of sentence per se.

In this study, demographic characteristics and criminal history were significantly related to how prison in particular was perceived. Women were much more likely than men to say that prison would both stop them from getting into trouble again, and help them make changes to their lives. Employment status once again was crucial, with employed detainees being considerably more likely to say that the threat of prison for six months would act as a deterrent and would also rehabilitate them. Detainees whose partner or children lived with them were also more likely to perceive that prison would make a difference. These findings are not surprising, given that people who are employed and have families have the most to

'lose' by going to prison. Demographic characteristics made only minimal differences in how other sentences were perceived.

We found that past experience of a sentence was consistently related to how the sentence was viewed, particularly in terms of its deterrent capacity. This was especially so in the case of past experience of prison and to a lesser extent, periodic detention. We found that detainees who had experienced a wide range of sentences were considerably less likely to be deterred both by prison and periodic detention. Again, these findings can perhaps in part be explained by the different characteristics of offenders who are sentenced to prison. However, it adds weight, along with similar findings from the ranking exercise, for not extending the use of imprisonment away from a sentence of last resort, particularly in respect of shorter terms of imprisonment.

### **10.3 Perceptions of sentencing practice**

Detainees were read three scenarios describing crimes and asked to indicate what they thought was an appropriate sentence in each case. The scenarios described crimes of theft through fraudulent use, male assaults female and aggravated burglary. A monetary penalty (fine or reparation) was most commonly imposed in the case of theft through fraudulent use, perhaps not surprising given that this was the only scenario with a clear monetary loss. However, a large minority also considered that he should be sentenced to a term of imprisonment. The majority of detainees considered that the person convicted of male assaults female should be sentenced to prison though a significant proportion also considered that a community-based sentence was appropriate. Nearly all detainees sentenced the person convicted of aggravated burglary to prison.

The study has shown that people who have been convicted of crimes are likely to be as punitive as the population at large. When making general comments, a number of detainees called for judges to impose tougher sentences, particularly for violent and sexual crimes.

### **10.4 Knowledge about crime and sentencing**

Results show widespread misunderstanding about crime and sentencing. Detainees thought that crime was increasing at a faster rate than is actually the case, that more crime involved violence than is the case, and the rate of offending while on bail is higher than it actually is. Only a quarter of detainees were aware of the statutory maximum penalty for rape and about two in five underestimated the average sentence and actual time spent in prison for rape.

The level of misunderstanding suggests that it is time to look at ways other than those provided currently by the media, of better informing the public. Hough and Roberts (1998) suggest that it is important to 'identify key audiences, such as opinion formers, victims, potential offenders and people at risk of offending and convey in media appropriate to each audience an accurate portrayal of current sentencing practice' (p.45).

## 10.5 Experience of fines

Forty percent of detainees had been fined in the previous year and 84% had been fined at some stage in the past. Fines are the most commonly imposed penalty – nearly half of the convicted cases in 1999 (47%) were sentenced to a fine.

It is important to note that the detainees in the study who had been fined in the previous year were probably not typical of people in general who are sentenced to fines. Offenders who have committed an offence of low seriousness have a far higher probability of receiving a monetary penalty (Triggs, 1999). Monetary penalties are also more likely for people who have a limited offending history. On the other hand, offenders with many previous cases, or moderate to high rates of conviction involving offences of moderate seriousness have a higher probability of a periodic detention sentence. In addition, women have a significantly lower probability of receiving a monetary penalty than men, even after taking account of the lower average seriousness of offences committed by women and other factors. Also there is a much lower use of fines imposed on Māori and Pacific Peoples offenders.

Fines can be criticised for the fact that they can be paid by someone else, thus limiting the level of hardship imposed on the offender. The financial difficulty fines place upon an offender's family is also an area of concern. Current legislation leaves the courts a large measure of discretion in determining whether or not to impose a fine, and the amount of the fine within the maximum amount. The main restriction is that the court must take into account the means and responsibilities of the offender, to the extent to which these are apparent to the court, when fixing the amount of the fine.<sup>52</sup>

Detainees with no family were considerably more likely to have received a fine than those who did have family. Most of the detainees said that they had paid the fine from their own resources, with only 3% saying that they had not used their own money to pay the fine. However, a number also said that they had had help from someone else in paying at least part of the fine. In all, 8% of detainees who had been fined said that someone else had helped them with at least part of the money to pay the fine, and this was most often parents or other relatives.

The majority of the detainees indicated some degree of difficulty in paying the fine, although less than half said that they had *lots* of difficulty. Thirty percent had no difficulty in paying the fine. Those detainees who did have difficulty in paying the fine most commonly indicated that this was because they were unemployed or on a benefit, they were finding it hard to make ends meet, or because of family responsibilities or other commitments.

It is interesting to note that employment status was not related to whether detainees had been fined in the previous year. That is, unemployed detainees were just as likely to have received a fine of similar amounts as employed detainees, and those employed were just as likely as those who were unemployed to have had difficulty in paying the fine. It is also interesting to note that detainees who were employed were just as likely as those who were unemployed to say that their fine was a fair sentence for the crime they had committed. This is despite the fact that the results of the ranking exercise showed that unemployed detainees were considerably more likely to rank fines as being tougher than those who were employed.

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<sup>52</sup> Criminal Justice Act 1985 s 27.

The findings clearly suggest the need for further research into monetary penalties, and in particular research which examines the impact that fines and reparation have on offenders' families. The circumstances and factors which judges take into consideration in the decision to impose a fine would also provide valuable information on these issues.

## 10.6 Fairness of sentences

We have seen that people convicted of crimes tend to suggest harsher sentences in certain cases than those handed down by the courts. But does this just apply when sentencing a hypothetical offender? It could be argued that when it comes to their own case, people see themselves as convicted unfairly and punished harshly. Indermaur (1992) found that while 90% of his sample of offenders thought the sentences handed down by the courts were not fair, this was reduced to 58% when asked to consider their own sentence. McGinnis and Carlson (1981) found that 41% of their sample thought that their sentence was severe, with 59% saying that it was either fair or lenient.

Three-quarters of the detainees we interviewed thought that their sentence of periodic detention was fair and half of detainees who had a fine imposed in the previous year thought that it was fair. Women were considerably more likely than men to report that their sentence of periodic detention was unfair - a similar finding to that of Indermaur (1992).

When asked to explain why their sentence of periodic detention or fine was unfair, detainees most often mentioned that it was because the sentence was too harsh. In particular they were concerned about issues of sentencing disparity. Some offenders were believed to have received lighter penalties for the same offence. It is noteworthy that a number of detainees thought that their periodic detention was unfair because it was neither harsh enough nor did it stop them re-offending. A fine was seen as the fairest alternative to periodic detention, followed by a shorter time on periodic detention and then community service.

Detainees were less likely to perceive that their fine was fair than that their sentence of periodic detention was fair. In a number of cases this may have been because they had received both a sentence of periodic detention and a fine for the same offence, and this was signalled in some of their comments. About one in five detainees who said their fine was unfair mentioned that this was because they were unable to pay the fine.

## 10.7 General comments

Detainees remarked generally on a wide range of issues. While a number expressed concern at some of the conditions of their sentence of periodic detention, a few had positive comments about the sentence and the periodic detention staff. Comments were also directed at prison and the impact on families and inability of prison to rehabilitate. Detainees also commented on sentences handed down by the courts that they were both too light for some people and for some offences but also that they were too tough for some others. Finally some detainees commented positively about the value of the research.

In conclusion, this study has provided a wealth of information on what people who are convicted of crimes think about the subject of crime and sentencing, including their own sentences. It is hoped that these findings will be useful to a range of people working within the criminal justice system. In the words of one detainee:

*I found this project and interviewing interesting. If it helps the Ministry review the law it would be a worthwhile project to be involved in. It is worth the effort to come here.*



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# Appendix 1: Informed consent form

## Study on crime and sentencing

*Text in italics are instructions for the interviewer. Do not read text in italics to the respondents. Only the text that is in bold is to be read to the respondent.*

Hi (kia ora etc) my name is \_\_\_\_\_

I'm part of a team doing some research for the Ministry of Justice.  
Thanks for being interested in it.

**The Ministry of Justice would like to hear what you think about crime and sentences. What you tell us will help the Ministry of Justice review the law.** *[If necessary add - For example, what sentences you think should be given for some crimes, and whether you think a fine is just as tough as Periodic Detention?]*

**The interview will take about half an hour. But first of all, there are a few things I want to explain. You can ask questions as I go through this with you.**

- **You don't have to take part in the research if you don't want to. Whatever you decide your sentence won't change.**
- **You don't have to answer any question that you don't want to, and you can stop the interview at any time.**
- **All the information you provide is confidential and the papers will be kept in a locked cabinet. No information will be given to anyone else in the system, such as your work party supervisor, police or any other government agency. But if you tell us anything that makes us think someone is at risk of serious harm, we'll need to discuss this with you and we may also need to talk to others.**
- **We'll be publishing a report about this research late next year. Your information will be combined with those of other people who take part in the research. No one will be able to recognise your answers in our report.**
- **If you'd like some help or support during the interview, there's somebody here who can sit with us. Would you like to talk to this person?** *(Go and get the support person, introduce them to the detainee. Once they've decided how they want to proceed, ask the detainee the next question, ie Is this OK?, then ask them to sign form etc)*

### **Is this ok?**

*(If the respondent is not willing to participate at this stage thank them for their time and say goodbye. If they are willing to participate, please continue)*

**Can you sign this to show that you've agreed to the interview.**

Signed \_\_\_\_\_



**Appendix 2: Questionnaire**



**ATTITUDES TOWARDS AND KNOWLEDGE ABOUT  
CRIME AND SENTENCING  
(People on periodic detention)**

*Day and Month*

				0	0
--	--	--	--	---	---

*Periodic Detention Centre*

--

*Interviewer Name*

--

*Interview No. (do not fill out  
– for coding purposes)*

--

RECORD START TIME \_\_\_\_\_

## Section 1

Q1 I'd like you to first of all think about the periodic detention you're doing at the moment and how tough you are finding it. **[IF NECESSARY.** There are no right or wrong answers. I am interested in what you think.]

These cards show some sentences we're interested in. I'd now like you to think about how tough you'd find these sentences if you were given any of them.

**SHUFFLE THE CARDS AND HAND ONE AT A TIME TO RESPONDENT. READ OUT CARDS UNTIL IT'S CLEAR RESPONDENT IS CONFIDENT ABOUT READING THEM OUT FOR THEMSELVES AND IS CLEAR ABOUT WHAT EACH SENTENCE MEANS. IF NOT CONFIDENT, CONTINUE TO HELP BY READING THEM OUT. REFER TO SHOWCARDS FOR INTERVIEWERS IF NECESSARY FOR MORE DETAIL ABOUT THE SENTENCES.**

**PLACE SORT BOARD IN FRONT OF RESPONDENT.**

If you think one of these sentences would be just slightly tough put the card on the **slightly tough** spot. If you'd think it was very tough put it on the **very tough** spot. If you'd think the sentence was extremely tough put the card on the **extremely tough** spot.

**WHEN THIS HAS BEEN DONE:**

Could you now take all of the cards you have put in the "slightly tough" pile and line them up from the **least** tough to the **most** tough.

**WHEN THIS HAS BEEN DONE:**

Now could you do exactly the same for the other two piles of cards, so that when you've finished we have a line of 13 cards.

**WHEN ALL THIRTEEN CARDS ARE LAID OUT:**

Now can you check through this line again, to make sure all 13 cards are in the right order of toughness for you. You can make any changes you need to at this stage, because it is important that the order is right, from least tough through to most tough.

**WHEN ORDER FINALISED, RECORD POSITION OF EACH CARD IN GRID BELOW. DOUBLE CHECK THAT YOU ARE RECORDING SENTENCES IN THE RIGHT ORDER.**

<b>LEAST TOUGH</b>	1	_____
	2	_____
	3	_____
	4	_____
	5	_____
	6	_____
	7	_____
	8	_____
	9	_____
	10	_____
	11	_____
	12	_____
<b>MOST TOUGH</b>	13	_____

**ASK QUESTIONS 2 & 3 FOR EACH OF THE FIVE SENTENCES IN TURN. USE GREEN SHOWCARDS K, T, N, H, L.**

**Q2** I'm now going to ask you some questions about five of these sentences.

How likely is it that ..... would be tough enough to stop you getting into trouble again? Do you think it would stop you, might stop you, or would not stop you getting into trouble again?

**ASK QUESTION 2 FOR ALL FIVE SENTENCES. CIRCLE APPROPRIATE OPTION**

	(a)	(b)	(c)	(d)	(e)
	Fine of \$500 <b>(K)</b>	4 mths PD <b>(T)</b>	Prison 6 mths <b>(N)</b>	100 hrs community Service <b>(H)</b>	12 mths supervision <b>(L)</b>
Would stop	1	1	1	1	1
Might stop	2	2	2	2	2
Would not stop	3	3	3	3	3
Refused	8	8	8	8	8
Don't know/can't say	9	9	9	9	9

**Q3** Some sentences are supposed to help people change their lives so that they stay out of trouble. If you were sentenced to ....., do you think it would help you, might help you, or would not help you make changes to your life?

**ASK QUESTION 3 FOR ALL FOR ALL FIVE SENTENCES. CIRCLE APPROPRIATE OPTION**

	(a)	(b)	(c)	(d)	(e)
	Fine of \$500 <b>(K)</b>	4 mths PD <b>(T)</b>	Prison 6 mths <b>(N)</b>	100 hrs community service <b>(H)</b>	12 mths supervision <b>(L)</b>
Would help	1	1	1	1	1
Might help	2	2	2	2	2
Would not help	3	3	3	3	3
Refused	8	8	8	8	8
Don't know/can't say	9	9	9	9	9

**Q4 SHOWCARD 4**

This card contains a list of different sentences. I will read them out to you and explain what some of them mean.

I'm now going to tell you about 3 people who have committed crimes. After I have read each one I'm going to ask you a question about it.

**READ FIRST SCENARIO. ASK QUESTION AND RECORD CODES IN TABLE OPPOSITE. REPEAT FOR ALL SCENARIOS.**

Which of these do you think is the right sentence for (NAME)? [SHOWCARD 4]

You can choose the same sentence for more than one crime.

**CODE 99 FOR 'DON'T KNOW'**

**CODE UP TO 3 IN COLUMN 4 BUT DO NOT ENCOURAGE MORE THAN ONE.**

<b>WRITE CODES IN BOXES CODE '99' FOR 'DON'T KNOW'</b>	<b>COLUMN 4</b> Sentence Option. Record more than one only if mentioned
1. John aged 45, used a client's money which should have been held in trust, as a \$50,000 deposit to buy an apartment for himself. At the time of the offence, John was a partner in a city legal firm. He has no previous convictions.	1 _____ (2 _____) (3 _____)
2. Peter, aged 32 threw a vase at his partner after a night out drinking with friends. His partner required several stitches to her head and she was off work for three days. Peter, a bank clerk, has been convicted for this type of assault before.	1 _____ (2 _____) (3 _____)
3. Paul, aged 22 and unemployed, broke into an elderly couple's house. When the elderly man got up to investigate the noise, Paul threatened him with a gun, and then ran off. He has previous convictions for breaking and entering.	1 _____ (2 _____) (3 _____)

**Q5** I'm now going to read the same statements to you again. This time I'll tell you the sentence that the person was actually given and ask you some questions about it.

**READ OUT FIRST SCENARIO AND ITS SENTENCE. ASK QUESTIONS (5a to 5c) AND RECORD CODES**

**WRITE IN AMOUNT IN COLUMN 5C  
CODE 99 FOR 'DON'T' KNOW'**

### Scenario 1

<b>WRITE CODES IN BOXES CODE '99' FOR 'DON'T KNOW'</b>	<b>COLUMN 5A Rating code</b>	<b>COLUMN 5B Suitability of fine</b>	<b>COLUMN 5C Amount of fine</b>
<p>1. John aged 45, used a client's money which should have been held in trust, as a \$50,000 deposit to buy an apartment for himself. At the time of the offence, John was a partner in a city legal firm. He has no previous convictions.</p> <p><b>John was sentenced to 150 hours of community service</b></p>			

**Q5a SHOWCARD 5a**

Do you think this sentence was far too heavy, a little too heavy, about right, a little too light or far too light?

**CODE ONE ONLY IN COLUMN 5A**

**Q5b SHOWCARD 5b**

What about if John was given a fine rather than 150 hours of community service. Looking at this showcard, do you think a fine would be much more suitable, slightly more suitable, slightly less suitable, or much less suitable than the sentence he was given?

**CODE ONE ONLY IN COLUMN 5B**

**Q5c IF CODED 1 OR 2 AT Q (ABOVE) ASK –**

What amount of fine should John receive instead of 150 hours of community service?

Q5

**Scenario 2**

**READ OUT SCENARIO 2 AND ITS SENTENCE. ASK QUESTIONS (5a to 5c) AND RECORD CODES.**

**WRITE IN AMOUNT IN COLUMN 5C  
CODE 99 FOR 'DON'T' KNOW'**

<b>WRITE CODES IN BOXES CODE '99' FOR 'DON'T KNOW'</b>	<b>COLUMN 5A Rating code</b>	<b>COLUMN 5B Suitability of fine</b>	<b>COLUMN 5C Amount of fine</b>
<p>2. Peter, aged 32 threw a vase at his partner after a night out drinking with friends. His partner required several stitches to her head and she was off work for three days. Peter, a bank clerk, has been convicted for this type of assault before.</p> <p><b>Peter was sentenced to 6 months periodic detention</b></p>			

Q5a **SHOWCARD 5a**

Do you think this sentence was far too heavy, a little too heavy, about right, a little too light or far too light?

**CODE ONE ONLY IN COLUMN 5A**

Q5b **SHOWCARD 5b**

What about if Peter was given a fine rather than 6 months periodic detention. Looking at this showcard, do you think a fine would be much more suitable, slightly more suitable, slightly less suitable or much less suitable than the sentence he was given?

**CODE ONE ONLY IN COLUMN 5B**

Q5c **IF CODED 1 OR 2 AT Q (ABOVE) ASK –**

What amount of fine should Peter receive instead of 6 months periodic detention?

**Q5**

**Scenario 3**

**READ OUT SCENARIO 3 AND ITS SENTENCE. ASK QUESTIONS (5a to 5c) AND RECORD CODES.**

**WRITE IN AMOUNT IN COLUMN 8C**

**CODE 99 FOR ‘DON’T’ KNOW’**

<b>WRITE CODES IN BOXES CODE ‘99’ FOR ‘DON’T KNOW’</b>	<b>COLUMN 5A Rating code</b>	<b>COLUMN 5B Suitability of fine</b>	<b>COLUMN 5C Amount of fine</b>
<p>3. Paul, aged 22 and unemployed, broke into an elderly couple’s house. When the elderly man got up to investigate the noise, Paul threatened him with a gun, and then ran off. He has previous convictions for breaking and entering.</p> <p><b>Paul was sentenced to 2 years imprisonment</b></p>			

**Q5a SHOWCARD 5a**

Do you think this sentence was far too heavy, a little too heavy, about right, a little too light or far too light?

**CODE ONE ONLY IN COLUMN 5A**

**Q5b SHOWCARD 5b**

What about if Paul was given a fine rather than 2 years imprisonment. Looking at this showcard, do you think a fine would be much more suitable, slightly more suitable, slightly less suitable or much less suitable than the sentence he was given?

**CODE ONE ONLY IN COLUMN 5B**

**Q5c IF CODED 1 OR 2 AT Q (ABOVE) ASK –**

What amount of fine should Paul receive instead of 2 years imprisonment?

## Section 2

If you don't know the answer to the next few questions, please just guess. **[IF DETAINEE ASKS FOR THE ANSWERS TO THE QUESTIONS TELL THEM THAT THEY WILL BE AVAILABLE WITH THE SUMMARY OF THE REPORT]**

### SHOW CARD 6

**Q6** Using this card, please tell me whether you think that the amount of crime reported to the police in New Zealand has changed over the past two years. Do you think there is –

#### READ OUT

A lot more crime .....

A little more crime .....

About the same .....

A little less crime .....

A lot less crime than 2 yrs ago .....

#### DON'T READ

Don't know .....

CIRCLE ONE ONLY

1

2

3

4

5

9

**Q7** Of every 100 crimes reported to the police, roughly how many do you think involve violence or the threat of violence?

**IF NECESSARY:** If you don't know, please just guess.

WRITE IN NUMBER BELOW

--	--	--

CODE 999 IF 'DON'T KNOW'

**Q8a** What do you think is the **maximum** number of years in prison a judge can sentence a rapist to?

**IF NECESSARY:** If you don't know, please just guess.

WRITE IN YEARS BELOW

---

**Q8b** If a rapist is sentenced to prison, how many years do you think he will be **sentenced** to on average?

**IF NECESSARY:** If you don't know, please just guess.

---

**Q8c** If a rapist is sentenced to prison, how many years do you think he will **actually** spend in prison on average?

**IF NECESSARY:** If you don't know, please just guess.

---

**Q 9** For every 100 people who are charged with an offence and remanded on bail until the case is heard, roughly what number do you think get caught for offending while on bail?

WRITE IN NUMBER  
BELOW  
CODE 999 IF  
DON'T KNOW

--	--	--

**Q10** What are the chances that a burglar will be caught by the police?

CIRCLE ONE ONLY

- |                                 |   |
|---------------------------------|---|
| High chance .....               | 1 |
| 50/50 chance .....              | 2 |
| Low chance .....                | 3 |
| <b>DON'T READ</b> Refused ..... | 8 |
| Don't know .....                | 9 |

---

### Section 3

In the next few questions we want to ask you about fines. I'm not interested in any fines you may have received for parking, speeding, Warrant of Fitness or car registration offences. I'm also not interested in any reparation you may have been sentenced to pay.

CIRCLE ONE ONLY

**Q 11a** Have you been fined in the last year? [IF THEY ANSWER YES DOUBLE CHECK THAT THE FINE IS NOT FOR PARKING, SPEEDING, WARRANT OF FITNESS OR CAR REGISTRATION OFFENCES]

- |                                 |   |
|---------------------------------|---|
| Yes .....                       | 1 |
| No .....                        | 2 |
| <b>DON'T READ</b> Refused ..... | 8 |
| Don't know ....                 | 9 |

**IF NO GO TO QUESTION 17**

**Q 11b** How much were you fined?

WRITE IN AMOUNT

- |                                 |   |
|---------------------------------|---|
| <b>DON'T READ</b> Refused ..... | 8 |
| Don't know ....                 | 9 |
-

**Q 12a** Do you think that your fine was a fair sentence for the offence you committed?

CIRCLE ONE ONLY

Yes ..... 1

No ..... 2

**DON'T READ**

Refused ..... 8

Don't know .... 9

**Q 12b** Why or why not?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Q 13a IF ANSWER IS NOT FAIR, ASK :  
(SHOWCARD 4)** Which of these sentences do you think would have been fairer?

RECORD SENTENCE

\_\_\_\_\_

**Q 13b** Why?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Q 14** Did you use your own money to pay any of the fine?

CIRCLE ONE ONLY

Yes ..... 1

No ..... 2

Not paid ..... 3

**DON'T READ**

Refused ..... 8

Don't know ..... 9

**Q 15a** Did anyone else give you money to help pay any of the fine?

CIRCLE ONE ONLY

- Yes ..... 1
- No ..... 2
  
- DON'T READ**
- Refused ..... 8
- Don't know ..... 9

**Q 15b** IF YES ASK

Who gave you the money to pay the fine?

---

---

---

**Q 16a** How much difficulty did you have or are you having in paying the fine? Did you have lots of difficulty, some difficulty or no difficulty?

- Lots of difficulty..... 1
- Some difficulty ..... 2
- No difficulty ..... 3
  
- DON'T READ**
- Refused ..... 4
- Don't know ..... 5

**IF NO DIFFICULTY GO TO QUESTION 17**

**Q 16b** Can you tell me something about how difficult it was for you to pay the fine?

---

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---

## Section 4

The next couple of questions are about PD and other sentences which you might have received.

**Q 17a** Do you feel that the Periodic Detention you are doing now is a fair sentence for the crime you committed?

CIRCLE ONE ONLY

Yes ..... 1

No ..... 2

**DON'T READ**

Refused ..... 8

Don't Know .... 9

**Q 17b** Why or why not?

---



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**Q 18a IF ANSWER IS NOT FAIR, ASK (SHOWCARD 4)** What other sentence do you think would have been fairer?

RECORD SENTENCE

---

**Q 18b** Why?

---



---



---



---



---

**Q 19** [SHOWCARD 19] Not counting the Periodic Detention sentence you are on at the moment, which of these sentences have you received in the past? I won't be looking up your record for this information.

CIRCLE ALL MENTIONS

Prison .....	YES	NO
Periodic Detention .....	YES	NO
Community Service .....	YES	NO
Community programme .....	YES	NO
Supervision .....	YES	NO
Reparation .....	YES	NO
Fine .....	YES	NO
Disqualified from driving .....	YES	NO
Suspended prison sentence .....	YES	NO
None.....	YES	NO
<b>DON'T READ</b> Refused.....	YES	NO
Don't Know.....	YES	NO

**Q 20** I am now going to read out some offences.

*READ OUT EACH OFFENCE CATEGORY AND ASK*

Have you been convicted of [.....] in the past?

Please just answer yes or no.

CIRCLE ALL MENTIONS

Violent offence.....	YES	NO
Traffic offence .....	YES	NO
Burglary .....	YES	NO
( <b>PROMPT</b> eg breaking and entering)		
Fraud .....	YES	NO
( <b>PROMPT</b> eg credit card or cheque fraud)		
Theft .....	YES	NO
Drugs .....	YES	NO
Offence against justice .....	YES	NO
( <b>PROMPT</b> eg breach of periodic detention, failure to appear in court, breach of protection orders)		
Offences against good order .....	YES	NO
( <b>PROMPT</b> eg disorderly behaviour, offensive language, carrying offensive weapons, trespassing and unlawful assembly)		
<b>DON'T READ</b> Refused .....	YES	NO
Don't Know .....	YES	NO

## Section 5

Finally, I'd like ask a few questions about you. As I said at the beginning you don't have to answer any questions you don't want to. The information that you give will be combined with those of other people we talk to. No one will be able to recognise your answers in our report.

CODE ONE ONLY

**Q21** Record sex

Male .....

1

Female .....

2

**Q22** **SHOW CARD 22**

Which of these age groups do you fit into?

18 – 19 yrs .....

1

20 – 29 yrs .....

2

30 – 39 yrs .....

3

40 – 49 yrs .....

4

50 – 59 yrs .....

5

60 – 69 yrs .....

6

70 yrs or over ..

7

Refused .....

8

CODE ONE ONLY

**Q23a** Do you have a partner and/or children?

Yes .....

1

No .....

2

**DON'T READ**

Refused .....

8

**Q23b** Do they usually live with you?

Yes.....

1

No .....

2

**DON'T READ**

Refused .....

8

**Q24 [SHOW CARD 24]**

From this card, please indicate as many ethnic groups as you need, to show which ethnic group or groups you belong to.

NZ Maori .....	01
NZ European/Pakeha ...	02
Other European	
English .....	03
Dutch .....	04
Australian .....	05
Scottish .....	06
Irish .....	07
Other .....	08 specify below
Samoan .....	09
Cook Island Maori ...	10
Tongan .....	11
Nuiean .....	12
Chinese .....	13
Indian .....	14
Other .....	15 specify below
(such as Fijian, Korean)	

**24 a) IF OTHER (i.e. CODE 08 OR 15)**

Which other ethnic group or groups do you belong to?

---



---

**Q 25** Are you currently:

**READ OUT**

Employed full time (30 or more hrs/week) .....	1
Employed part time (less than 30hrs/week) ....	2
Unemployed .....	3
A voluntary worker or not paid labour force ...	4

**DON'T READ**

Refused .....	8
---------------	---

CODE ALL MENTIONS

CODE ONLY ONE

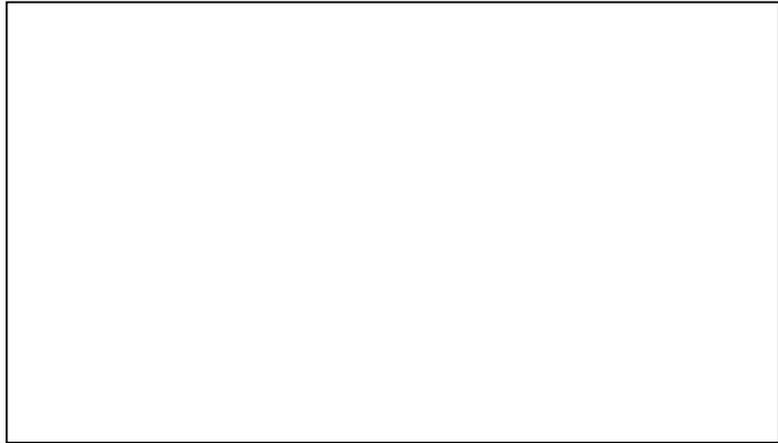




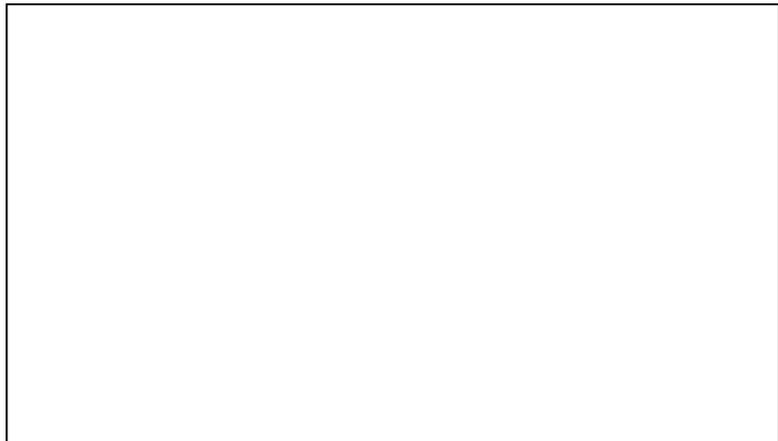
## **Appendix 3: Showcards**

### **Sort board**

**SLIGHTLY TOUGH**

A large, empty rectangular box with a thin black border, intended for sorting cards under the 'SLIGHTLY TOUGH' category.

**VERY TOUGH**

A large, empty rectangular box with a thin black border, intended for sorting cards under the 'VERY TOUGH' category.

**EXTREMELY TOUGH**

A large, empty rectangular box with a thin black border, intended for sorting cards under the 'EXTREMELY TOUGH' category.

CARD (F)

**A fine of \$200**

CARD (K)

**A fine of \$500**

CARD (P)

**A fine of \$1,000**

CARD (G)

**6 Months Residential Community  
Programme**

CARD (L)

**12 Months Supervision**

CARD (Q)

**9 months Prison Sentence Suspended  
for 18 months**

CARD (H)

**100 Hours of Community Service**

CARD (I)

**4 Months Periodic Detention**

CARD (M)

**12 Months Periodic Detention**

CARD (J)

**Prison for 3 months**

CARD (N)

**Prison for 6 months**

CARD (S)

**Prison for 12 months**

CARD (V)

**Prison for 3 years**

CARD (K)

**A fine of \$500**

CARD (L)

**12 Months Supervision**

CARD (H)

**100 Hours of Community Service**

CARD (T)

**4 Months Periodic Detention**

CARD (N)

**Prison for 6 months**

## Showcard 4

### Sentences

Choose the most appropriate option

- 1 Life imprisonment
- 2 Imprisonment of more than 10 years
- 3 Imprisonment between 5 & 10 years
- 4 Imprisonment between 1 & 5 years
- 5 Imprisonment of less than 1 year
- 6 Periodic Detention
- 7 Community Service
- 8 Community Programme
- 9 Supervision (probation)
- 10 Reparation
- 11 Fine
- 12 Disqualified from driving
- 13 Suspended prison sentence
- 14 Warning (and no other penalty given)
- 15 No penalty at all given

## Showcard 5a

Far too heavy.....1

A little too heavy.....2

About right.....3

A little too light.....4

Far too light.....5

## **Showcard 5b**

Much more suitable.....1

Slightly more suitable.....2

Slightly less suitable.....3

Much less suitable.....4

## Showcard 6

<b>A lot more</b> crime than 2 years ago.....	1
<b>A little more</b> crime than 2 years ago.....	2
<b>About the same</b> amount of crime as 2 years ago.....	3
<b>A little less</b> crime than 2 years ago.....	4
<b>A lot less</b> crime than 2 years ago.....	5

## **Showcard 19**

Prison

Periodic Detention

Community Service

Community Programme

Supervision

Reparation

Fine

Disqualified from driving

Suspended prison sentence

## Showcard 22

18 – 19 years.....	1
20 – 29 years.....	2
30 – 39 years.....	3
40 – 49 years.....	4
50 – 59 years.....	5
60 – 69 years.....	6
70 years or over.....	7

---

## Showcard 24

NZ Māori.....	01
NZ European/Pakeha.....	02
Other European (please specify)	
- English.....	03
- Dutch.....	04
- Australian.....	05
- Scottish.....	06
- Irish.....	07
- Other (please specify).....	08
Samoan.....	09
Cook Island Māori.....	10
Tongan.....	11
Niuean.....	12
Chinese.....	13
Indian.....	14
Other (such as Fijian, Korean etc) (please specify).....	15



## **Appendix 4: Safety protocols**

### **Offenders' attitudes to crime and sentencing**

#### **Guidelines where there are safety concerns during interviews with periodic detention detainees**

The following safety protocols should be followed if it becomes clear during an interview that someone's safety is seriously at risk.

These protocols relate to the safety of another adult member of the public (other than the detainee), the safety of a child, the safety of the periodic detention detainee, and the safety of the interviewer.

When there is risk of serious harm, the principle of confidentiality is suspended.

#### **Safety of another adult or child**

If a detainee indicates that they intend serious harm to another adult or child:

- The interviewer should try and ascertain how serious and immediate the risk is. The work party supervisor should be informed of the situation with the detainee's knowledge. The interviewer's concerns should be discussed with the research team leader, and the team will then decide what further steps might be taken. This may include contacting the police after the work party supervisor has been consulted.

If a detainee indicates that they have committed a serious crime (such as sexual abuse or rape) and they have not been convicted of this offence:

- The interviewer should discuss with the detainee what steps the detainee might take to report the crime. If the detainee does not want to take any action the interviewer should talk to the research team leader, and the team will then decide the appropriate steps to take in the situation. This may include telling the detainee that the information will be passed on to the work party supervisor and the police.

#### **Safety of detainee**

If the detainee indicates that they are fearful of serious harm, that their life is in danger, or that they intend to harm themselves:

The interviewer should discuss with the detainee how the safety of the detainee can be increased. Immediate options include the detainee reporting their concerns to the work party supervisor and/or the police. If the detainee decides not to take steps to increase their safety, the interviewer should discuss their concerns with other members of the team, and the team will then decide the appropriate steps to take in the situation. This may include telling the detainee that the information will be passed on to the work party supervisor and the police.

### **Interviewer safety**

If the interviewer becomes concerned for their own safety at any stage in the interview process, the interview should be terminated immediately and the interviewer should physically remove themselves from the room and the work party supervisor and research team leader advised.

## Appendix 5: Information sheet for detainees



### Crime and sentencing

If you're interested in talking about crime and sentencing, some researchers from the Ministry of Justice will be here on (dates selected). What you tell us will help the Ministry review the law.

**The team will include interviewers who can speak Māori and Samoan.**

The interviews will take about half an hour. All the information you give will be confidential between you and the researchers. You don't have to talk about anything you don't want to and you can stop the interview at any time. No writing is needed from people who take part.

Please let your Work Party Supervisor know if you'd like to be interviewed.

If you have any questions about the research phone:

Senior Research Adviser  
Ministry of Justice  
PO Box 180  
Wellington  
Phone (0800 number)



## Soligātulāfono ma faasalaga

Afai e te āmana'ia aloa'ia ni feutaga'iga e uiga i soligātulāfono ma faasalaga, o le a taunuu mai iinei nisi o le 'au-su'esu'e mai i le Matāgaluega o Agatonu (Ministry of Justice) i le Aso Feraile Aso (selected dates). O finagalo o le a outou faaalua mai, o le a avea ma fesoasoani i le Matāgaluega mo le toe iloiloina o le tulāfono.

O le 'au-su'esu'e, o le a 'auai mai ai tagata feutaga'i e mafai ona vāgana i le gagana Maori ma le gagana Samoa.

O talanoaga feutaga'i, o le a faaauau pe tusa e atoa le 'afa itūlā. O faamatalaga uma o le a e saunoa mai ai, o le a tuu faalilo ifo i le va o 'oe ma le 'au-su'esu'e. E leai se tulaga e ala ai fua ona e talanoa mai i ni matāupu e te lē o faafinagaloina; ma o le a mafai ona e taofia faamuta le talanoaga i soo se taimi. E lē mana'omia ni tusitusiga mai i tagata o le a 'auai.

Malie ia logo ane i Lē o loo Vaava'aia le 'Au Faigaluega pe afai e te finagalo malie e te 'auai i talanoaga feutaga'i.

Afai e i ai ni au faafesili e uiga i su'esu'ega, telefoni ane iā:

Senior Research Adviser  
Ministry of Justice  
PO Box 180  
Wellington  
Telefoni numerā: (0800 number)



## Te hara me te whiu

Mehemea he kōrero kei a koe e pā ana ki te hara me te whiu, ā, kei te hiahia koe ki te whakaputa i aua whakaaro, he kairangahau o te Manatū Ture (Ministry of Justice) kei te haere mai ki konei a te (selected dates). Mā ō kōrero e āwhina te Manatū ki te arotake i te ture.

Kei roto i te kapa ngā kaipatapatai e kaha ana ki te kōrero Māori me te kōrero Hāmoa.

Tata pea ki te hāwhe hāora te roa o te wā o ngā patapatai. Ka noho tapu ō whakamōhiotanga katoa ki waenganui i a koe me ngā kairangahau. Ki te kore koe e hiahia ki te kōrero mō tētahi āhuatanga, kāore koe e whakamahia kia kōrero. Ki te hiahia koe ki te whakamutu i te uiui, ka taea tērā. Kāore he mahi tuhituhi mā tētahi e uru atu ana ki ngā patapatai.

Āta whakapā atu ki te Kaiwhakahaere o tō Rōpū Awheawhe mehemea kei te pīrangi koe kia patapataitia.

Mēnā he pātai tāu e pā ana ki te rangahau, waea mai ki a:

Senior Research Adviser  
Ministry of Justice  
PO Box 180  
Wellington  
i runga i te nama waea (0800 number)



## Appendix 6: Information sheet for PD centre staff



### *Research project*

### *Staff information sheet*

A team of interviewers will be coming to the (one of five sites) Periodic Detention Centre on (dates selected) to interview periodic detention detainees.

The aim of the research is to find out what detainees think and know about crime and sentencing. The detainees will be asked a number of questions, such as which sentences are tougher than others, what are the purposes of sentences, what sentences should be given for some offences, and crime levels in New Zealand.

Only those detainees who volunteer to take part in the project will be interviewed. Each interview will take about 30 minutes.

**Information sheets, in Māori, Samoan and English, will be given to the detainees two weeks before the interviewing begins.**

The interview team will include Samoan and Māori interviewers.

If you have any questions about the project please contact:

Senior Research Adviser  
Ministry of Justice  
PO Box 180  
Wellington  
**Phone (0800 number)**



## Appendix 7: Paired comparison test

**Table A7.1 Paired comparison tests**

<b>Paired comparisons</b>	<b>Mean</b>	<b>Standard error</b>	<b>P value</b>
Fine \$200 – community service	-1.194	0.176	<.0001
Community service – supervision	-0.529	0.173	0.0024
Supervision – fine \$500	0.118	0.199	0.5545
Fine \$500 – 4 months PD	-0.720	0.187	0.0001
4 months PD – suspended sentence	-1.047	0.188	<.0001
Suspended sentence – community programme	0.681	0.217	0.0019
Community programme – Fine \$1,000	-0.039	0.231	0.8652
Fine \$1,000 – 12 months PD	-1.021	0.196	<0.001
12 months PD – 3 months prison	-1.045	0.143	<0.001
3 months prison – 6 months prison	-1.418	0.063	<0.001
6 months prison – 12 months prison	-1.214	0.061	<0.001
12 months prison – 3 years prison	-1.295	0.058	<0.001

The Null Hypothesis for a Paired Comparison test is that the mean difference is equal to 0. A significant p value indicates that the difference is not 0, which implies that there is a difference in ranking.



# Appendix 8: Sentence ranking for Question 1

Figure A8.1 Rank order of \$200 fine

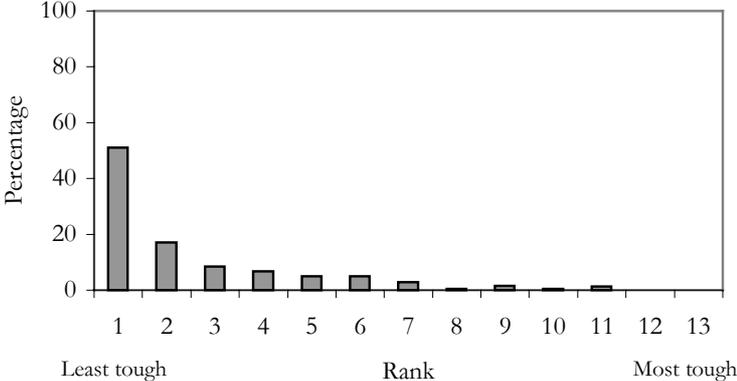


Figure A8.2 Rank order of \$500 fine

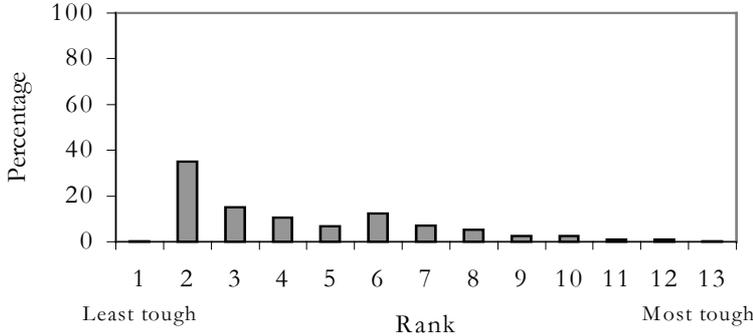
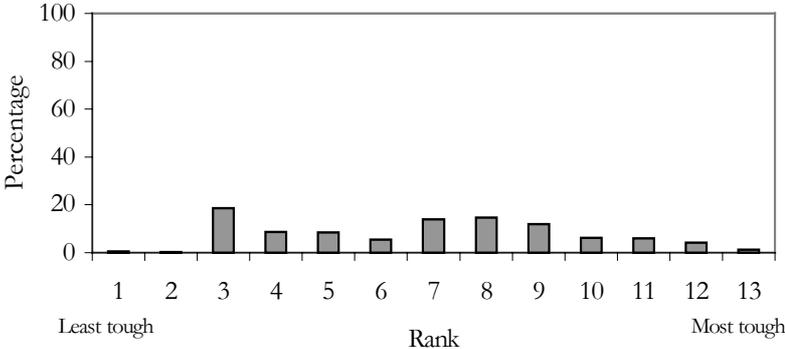
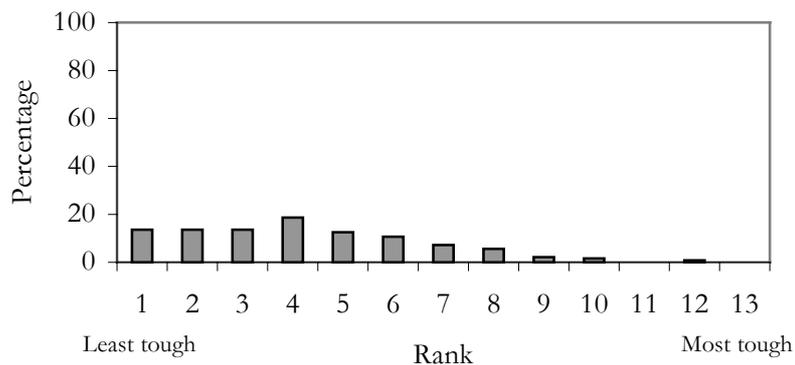


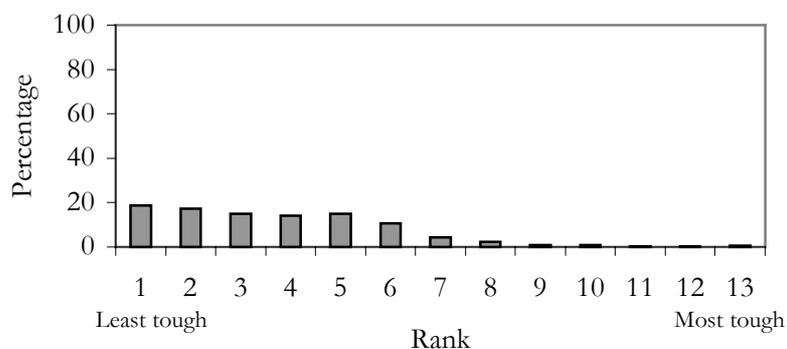
Figure A8.3 Rank order of \$1,000 fine



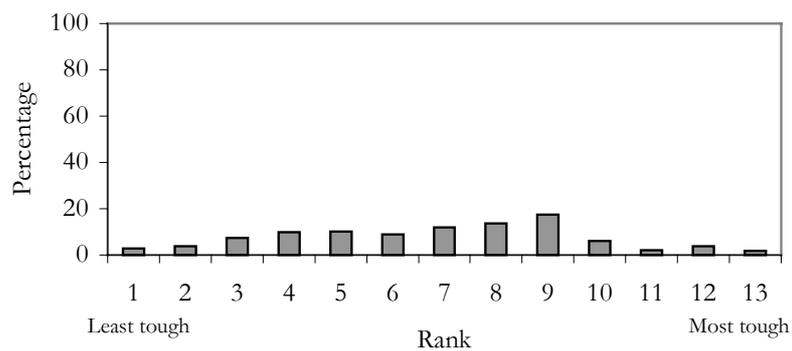
**Figure A8.4 Rank order of 12 months supervision**



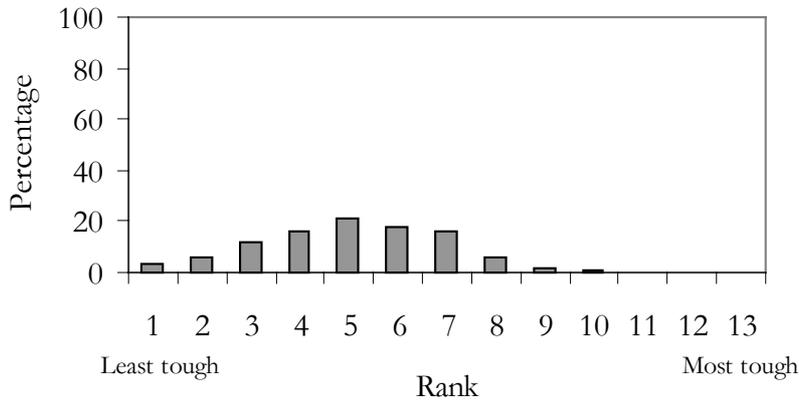
**Figure A8.5 Rank order of 100 hours community service**



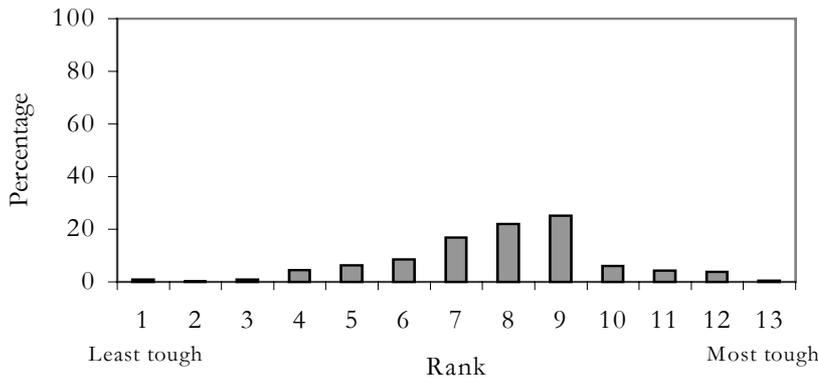
**Figure A8.6 Rank order of 6 months residential community programme**



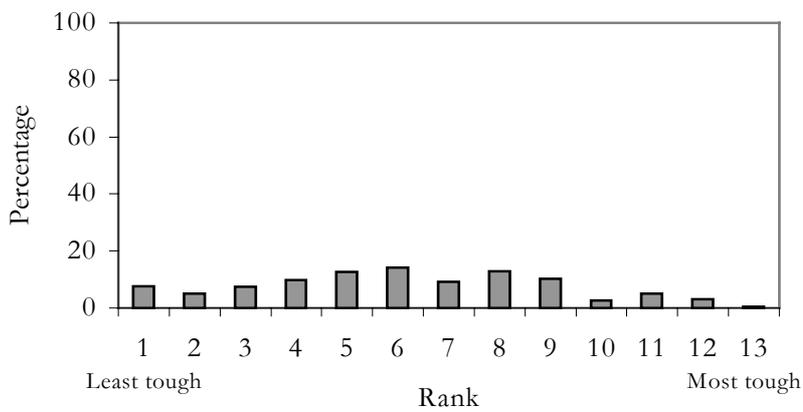
**Figure A8.7 Rank order of 4 months periodic detention**



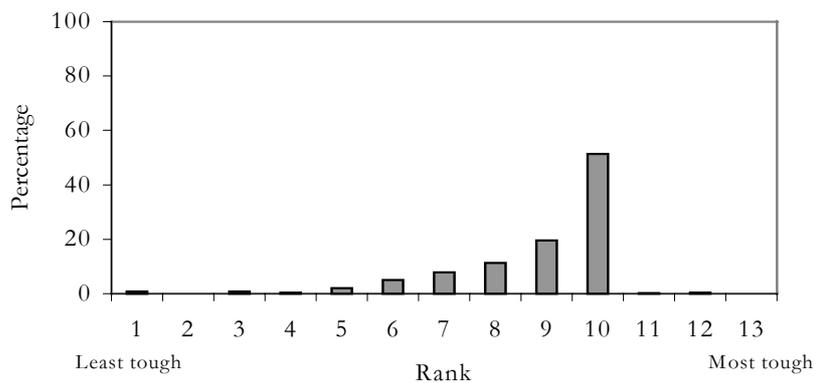
**Figure A8.8 Rank order of 12 months periodic detention**



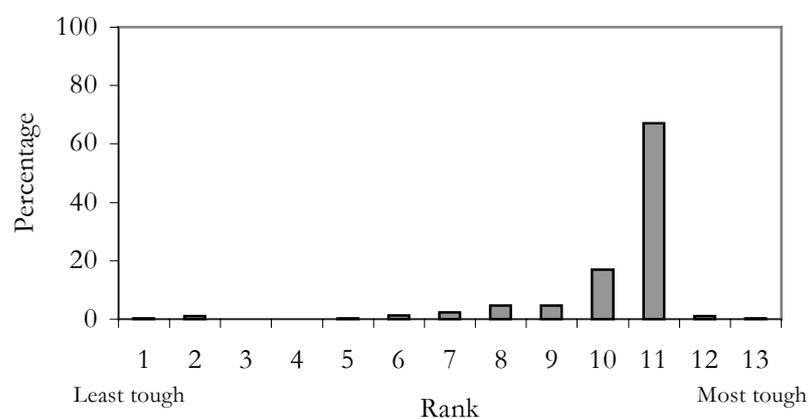
**Figure A8.9 Rank order of 9 months prison suspended 18 months**



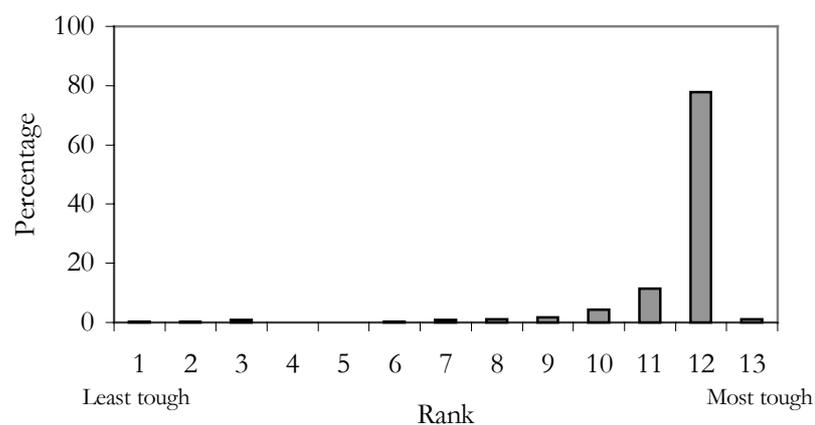
**Figure A8.10 Rank order of 3 months prison**



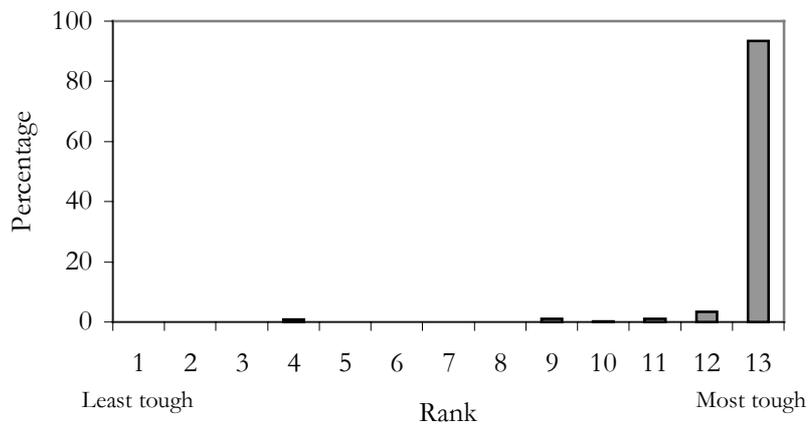
**Figure A8.11 Rank order of 6 months prison**



**Figure A8.12 Rank order of 12 months prison**



**Figure A8.13 Rank order of 3 years prison**





**Appendix 9: Tables: Deterrent effect of sentences  
by past sentences and convictions**

## Past sentences

\* Indicates a statistically significant finding.

**Table A9.1 How likely is it that a fine of \$500 would be tough enough to stop you getting into trouble again?**

	What sentences have you received in the past?																	
	Prison		PD*		C. Service		C. Programme		Supervision*		Reparation		Fine		Disq Driving*		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	19%	21%	18%	25%	20%	20%	18%	21%	14%	27%	18%	22%	19%	28%	17%	28%	19%	21%
Might stop	24%	30%	25%	33%	23%	33%	21%	30%	26%	29%	24%	31%	30%	16%	30%	22%	27%	29%
Wouldn't stop	57%	49%	57%	42%	57%	47%	61%	50%	60%	44%	58%	46%	51%	56%	53%	50%	54%	51%

**Table A9.2 How likely is it that 4 months periodic detention would be tough enough to stop you getting into trouble again?**

	What sentences have you received in the past?																	
	Prison*		PD*		C. Service		C. Programme*		Supervision*		Reparation		Fine		Disq Driving		Susp Sentence*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	33%	44%	33%	53%	34%	46%	24%	44%	30%	50%	37%	43%	38%	47%	36%	49%	29%	46%
Might stop	36%	40%	42%	31%	41%	36%	43%	37%	40%	37%	37%	40%	38%	40%	41%	33%	45%	35%
Wouldn't stop	31%	16%	25%	16%	25%	18%	33%	19%	30%	13%	27%	17%	23%	13%	23%	19%	27%	19%

**Table A9.3 How likely is it that prison for 6 months would be tough enough to stop you getting into trouble again?**

	What sentences have you received in the past?																	
	Prison*		PD*		C. Service*		C. Programme*		Supervision*		Reparation*		Fine		Disq Driving		Susp Sentence*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	45%	81%	63%	77%	62%	74%	48%	73%	55%	80%	58%	76%	66%	75%	66%	71%	53%	76%
Might stop	31%	14%	22%	17%	23%	18%	32%	17%	27%	13%	26%	15%	21%	18%	20%	20%	30%	14%
Wouldn't stop	24%	6%	16%	6%	16%	9%	21%	10%	18%	7%	16%	9%	14%	7%	14%	9%	17%	10%

**Table A9.4 How likely is it that 100 hours of community service would be tough enough to stop you getting into trouble again?**

	What sentences have you received in the past?																	
	Prison*		PD		C. Service*		C. Programme		Supervision		Reparation		Fine		Disq Driving		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	31%	26%	26%	32%	25%	32%	26%	29%	25%	31%	25%	31%	27%	34%	25%	35%	26%	29%
Might stop	26%	40%	33%	39%	31%	39%	37%	34%	35%	35%	33%	36%	35%	31%	37%	29%	34%	35%
Wouldn't stop	43%	34%	41%	30%	45%	29%	38%	37%	41%	34%	43%	33%	38%	34%	38%	35%	40%	36%

**Table A9.5 How likely is it that 12 months supervision would be tough enough to stop you getting into trouble again?**

	What sentences have you received in the past?																	
	Prison*		PD		C. Service		C. Programme		Supervision*		Reparation		Fine		Disq Driving		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	34%	36%	34%	38%	31%	40%	29%	37%	30%	41%	32%	38%	33%	46%	32%	42%	32%	37%
Might stop	26%	42%	35%	39%	36%	37%	34%	37%	35%	37%	34%	38%	38%	25%	38%	31%	36%	35%
Wouldn't stop	39%	22%	31%	23%	33%	23%	37%	26%	35%	22%	34%	24%	28%	30%	29%	27%	32%	26%

**Past convictions**

**Table A9.6 How likely is it that a fine of \$500 would be tough enough to stop you getting into trouble again?**

	Past convictions															
	Violent offence		Traffic offence		Burglary*		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	17%	23%	19%	27%	19%	21%	24%	19%	17%	23%	15%	25%	13%	24%	12%	26%
Might stop	27%	28%	29%	24%	19%	33%	22%	29%	22%	33%	32%	24%	22%	31%	23%	31%
Wouldn't stop	56%	49%	53%	48%	62%	46%	54%	51%	60%	44%	53%	51%	65%	45%	65%	43%

**Table A9.7 How likely is it that 4 months periodic detention would be tough enough to stop you getting into trouble again?**

	Violent offence*		Traffic offence		Burglary*		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
	Past convictions															
Would stop	36%	43%	38%	48%	37%	42%	42%	39%	33%	46%	30%	48%	26%	48%	25%	50%
Might stop	36%	41%	39%	35%	34%	41%	29%	41%	39%	38%	43%	35%	44%	35%	40%	38%
Wouldn't stop	29%	15%	23%	17%	30%	17%	29%	20%	29%	15%	27%	17%	30%	17%	35%	12%

**Table A9.8 How likely is it that prison for 6 months would be tough enough to stop you getting into trouble again?**

	Violent offence*		Traffic offence		Burglary*		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
	Past convictions															
Would stop	57%	77%	66%	73%	52%	76%	63%	68%	53%	81%	55%	78%	56%	74%	47%	83%
Might stop	24%	17%	20%	21%	27%	17%	27%	18%	26%	14%	27%	15%	24%	18%	33%	11%
Wouldn't stop	20%	6%	14%	6%	21%	7%	10%	13%	20%	5%	18%	8%	19%	8%	20%	7%

**Table A9.9 How likely is it that 100 hours of community service would be tough enough to stop you getting into trouble again?**

	Violent offence		Traffic offence		Burglary		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
	Past convictions															
Would stop	29%	28%	27%	35%	27%	29%	26%	28%	22%	33%	22%	33%	22%	32%	19%	34%
Might stop	30%	39%	35%	33%	29%	38%	30%	36%	34%	35%	41%	29%	31%	37%	34%	35%
Wouldn't stop	42%	34%	39%	32%	44%	34%	44%	36%	44%	32%	37%	38%	47%	32%	47%	30%

**Table A9.10 How likely is it that 12 months supervision would be tough enough to stop you getting into trouble again?**

	Past convictions															
	Violent offence*		Traffic offence		Burglary		Fraud		Theft*		Drugs		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would stop	32%	38%	34%	41%	33%	37%	35%	35%	31%	39%	31%	39%	30%	39%	27%	41%
Might stop	32%	41%	37%	33%	34%	38%	35%	36%	33%	39%	36%	37%	33%	38%	37%	36%
Wouldn't stop	36%	22%	29%	25%	33%	26%	29%	28%	36%	22%	33%	25%	37%	23%	36%	23%



**Appendix 10: Tables: Rehabilitative effect of sentences by past sentences and conviction**

## Past sentences

**Table A10.1 If you were sentenced to a fine of \$500 do you think it would help you, might help you or would not help you make changes to your life?**

	What sentences have you received in the past?																	
	Prison		PD		C. Service		C. Programme		Supervision*		Reparation*		Fine		Disq Driving*		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	25%	24%	22%	28%	21%	28%	17%	26%	18%	31%	18%	29%	23%	30%	22%	29%	20%	27%
Might help	20%	25%	23%	24%	22%	24%	24%	23%	26%	20%	23%	23%	25%	11%	26%	15%	25%	22%
Wouldn't help	55%	51%	55%	48%	57%	48%	59%	51%	56%	49%	59%	47%	51%	59%	51%	55%	56%	51%

**Table A10.2 If you were sentenced to 4 months periodic detention do you think it would help you, might help you or would not help you make changes to your life?**

	What sentences have you received in the past?																	
	Prison*		PD		C. Service*		C. Programme		Supervision*		Reparation*		Fine		Disq Driving		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	43%	45%	42%	49%	38%	51%	34%	47%	38%	51%	38%	50%	43%	48%	43%	46%	37%	48%
Might help	27%	36%	33%	33%	35%	31%	37%	32%	35%	31%	34%	31%	33%	32%	33%	32%	37%	31%
Wouldn't help	30%	19%	25%	18%	27%	19%	29%	21%	27%	18%	27%	19%	24%	19%	23%	22%	26%	21%

**Table A10.3 If you were sentenced to prison for 6 months, do you think it would help you, might help you, or would not help you make changes to your life?**

	What sentences have you received in the past?																	
	Prison*		PD*		C. Service		C. Programme*		Supervision*		Reparation*		Fine		Disq Driving		Susp Sentence*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	41%	73%	56%	72%	61%	62%	44%	66%	49%	74%	55%	67%	59%	72%	61%	63%	52%	67%
Might help	19%	16%	17%	17%	16%	18%	18%	16%	19%	15%	21%	13%	18%	13%	17%	16%	17%	17%
Wouldn't help	40%	11%	27%	11%	24%	20%	38%	17%	32%	12%	24%	20%	23%	15%	22%	21%	31%	16%

**Table A10.4 If you were sentenced to 100 hours of community service, do you think it would help you, might help you, or would not help you make changes to your life?**

	What sentences have you received in the past?																	
	Prison		PD		C. Service*		C. Programme		Supervision		Reparation*		Fine		Disq Driving		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	35%	29%	31%	31%	25%	38%	31%	31%	30%	32%	26%	36%	30%	36%	30%	34%	31%	31%
Might help	27%	38%	32%	38%	32%	36%	34%	34%	33%	35%	33%	35%	34%	36%	34%	34%	29%	37%
Wouldn't help	38%	33%	37%	31%	43%	26%	35%	35%	37%	32%	41%	30%	36%	28%	36%	33%	40%	32%

**Table A10.5 If you were sentenced to 12 months supervision do you think it would help you, might help you, or would not help you make changes to your life?**

	What sentences have you received in the past?																	
	Prison*		PD		C. Service*		C. Programme		Supervision		Reparation		Fine		Disq Driving		Susp Sentence	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	45%	45%	44%	48%	42%	48%	51%	43%	45%	45%	41%	49%	44%	49%	43%	49%	44%	46%
Might help	24%	34%	31%	30%	28%	34%	28%	32%	30%	32%	33%	29%	32%	25%	31%	29%	32%	30%
Wouldn't help	30%	21%	25%	23%	30%	18%	21%	25%	25%	23%	26%	22%	24%	26%	25%	22%	24%	24%

### Past convictions

**Table A10.6 If you were sentenced to a fine of \$500 do you think it would help you, might help you or would not help you make changes to your life?**

	Past convictions															
	Violent offence		Traffic offence		Burglary		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	20%	28%	24%	25%	20%	26%	19%	26%	20%	28%	16%	31%	17%	28%	16%	30%
Might help	24%	22%	24%	19%	20%	25%	18%	25%	21%	25%	26%	21%	24%	23%	25%	22%
Wouldn't help	55%	50%	52%	56%	59%	49%	63%	50%	59%	47%	59%	48%	59%	49%	59%	48%

**Table A10.7 If you were sentenced to 4 months periodic detention do you think it would help you, might help you or would not help you make changes to your life?**

	Past convictions															
	Violent offence		Traffic offence		Burglary		Fraud*		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	42%	47%	45%	42%	38%	48%	41%	45%	38%	50%	36%	51%	33%	51%	31%	54%
Might help	31%	34%	33%	34%	34%	32%	25%	35%	35%	31%	38%	29%	39%	29%	40%	27%
Wouldn't help	27%	19%	23%	23%	28%	20%	34%	20%	28%	19%	26%	20%	28%	20%	29%	18%

**Table A10.8 If you were sentenced to prison for 6 months, do you think it would help you, might help you, or would not help you make changes to your life?**

	Past convictions															
	Violent offence		Traffic offence		Burglary*		Fraud		Theft*		Drugs*		Ag justice*		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	57%	66%	60%	66%	49%	68%	57%	62%	48%	73%	50%	71%	50%	68%	50%	70%
Might help	17%	17%	18%	13%	20%	15%	20%	16%	20%	14%	21%	14%	23%	13%	22%	13%
Wouldn't help	27%	17%	22%	22%	31%	17%	23%	22%	32%	13%	29%	16%	27%	19%	29%	17%

**Table A10.9 If you were sentenced to 100 hours of community service, do you think it would help you, might help you, or would not help you make changes to your life?**

	Past convictions															
	Violent offence*		Traffic offence		Burglary		Fraud		Theft		Drugs		Ag justice		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	29%	33%	31%	30%	30%	32%	28%	32%	26%	36%	29%	33%	25%	35%	25%	35%
Might help	29%	39%	33%	39%	28%	37%	27%	36%	34%	35%	36%	32%	34%	34%	31%	36%
Wouldn't help	42%	28%	36%	31%	42%	31%	46%	32%	40%	30%	35%	34%	41%	31%	44%	28%

**Table A10.10 If you were sentenced to 12 months supervision do you think it would help you, might help you, or would not help you make changes to your life?**

	Past convictions															
	Violent offence*		Traffic offence		Burglary		Fraud		Theft		Drugs		Ag justice		Ag good order*	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Would help	40%	50%	44%	48%	48%	43%	45%	45%	44%	46%	46%	44%	42%	47%	40%	49%
Might help	31%	31%	32%	27%	26%	33%	24%	32%	28%	34%	30%	31%	30%	32%	29%	32%
Wouldn't help	30%	19%	24%	25%	26%	23%	31%	23%	28%	21%	24%	24%	29%	22%	32%	19%

