

Measuring the Effects of Small Group Deliberation on Public Attitudes towards Sentencing: Benefits and Challenges

Geraldine Mackenzie, Nigel Stobbs, Claire Ferguson and Karen Gelb*

Abstract

This article reports on the outcomes of small group deliberations on levels of punitiveness and public confidence in the sentencing functions of Australian criminal courts, conducted as part of a larger project investigating public attitudes to sentencing. One hypothesis of the project as a whole was that a more informed and involved public is likely to be less punitive in their views on the sentencing of offenders, and to express less cynical views about the role of sentencing courts. The aim of the small group deliberations as part of the broader project was to engender a more thoughtful and considered approach by participants to issues around sentencing. It was hypothesised that the opportunity to discuss, deliberate and consider would lead to a measurable reduction in punitiveness and an increase in people's confidence in the courts. While the results do indeed indicate such changes in attitudes, the current study also shed light on some of the conceptual, methodological and practical challenges inherent in this type of research.

Introduction

A key informing principle underpinning the operation of liberal democracies is that individual citizens are permitted and encouraged to have a voice in the mechanisms of all critical processes and institutions. Of course for pragmatic reasons, this is generally achieved through a representative political process. According to the liberal democratic ideal, therefore, law and policy formation are intrinsically expressions of the public consciousness. The values, priorities and worldviews of a community are inherent in its legal and social institutions.

The literature on public attitude formation in relation to law and justice issues, however, often observes that, due to the vagaries of the political system, those who are charged with representing the public are largely self-selected, and to some extent representing and giving expression to their own worldviews, values and personal interests (Fishkin 1995). Those

* Professor Geraldine Mackenzie, Dean, Faculty of Law, Bond University, Gold Coast, Australia; Dr Nigel Stobbs, Senior Lecturer, Faculty of Law, Queensland University of Technology, Brisbane, Australia; Dr Claire Ferguson, Adjunct Assistant Professor, Bond University, Gold Coast, Australia; Dr Karen Gelb, Senior Research Assistant, Bond University, Gold Coast, Australia. Correspondence email: n2.stobbs@qut.edu.au.

who are most well versed on the issues, so the argument goes, may therefore believe themselves to be representing what is best for the public, although the public may disagree, or — worse still — be completely unaware of the relevant issues and evidence and therefore unable to come to any coherent opinion at all. If there is some truth to this line of reasoning, then it may be said to constitute a form of unacceptable paternalism.

Divining the actual opinions of the public, however, is a fraught exercise for those whose task it is to represent their constituents. Elected representatives are often subject to the pressures of interest groups, which may present a selection of facts that are designed to support their particular cause. In addition, public opinion is fluid: it changes over time, changes depending on the available information and changes as the political and social environment changes. This fluidity renders the job of representing ‘public opinion’ — of incorporating public opinion into the democratic process — extremely difficult indeed.

Despite this, policymakers must regularly differentiate between those public opinions that are widely held, informed and of immediate relevance to policy and those which are too variable, inconsistent or temporary to have an effect on legislation. To do so, they must seek out those instances referred to by Fishkin (1995), where public opinion is of sufficient quality to be worth listening to.

Generating quality public opinion

One of the ways in which valuable, informed public opinion may be generated is when people are allowed to gather to hear arguments for both sides of an issue, to discuss and deliberate on the arguments presented, and to come to some sort of consensus or collective decision about what can and should be done (Goodin and Dryzek 2006). That is, public opinion may have more of an opportunity to influence policy when it is perceived as coming from an educated and thoughtful place, as opposed to a top-of-the-head decision without much consideration for related issues and counterarguments (Indermaur 2009). This sort of intensive decision-making is in direct contrast to more traditional (and far more common) public decision-making, which often involves choices based on sound bites or brief information from media headlines (Fishkin 1995).

There have been increasing calls, over the past 20 years in particular, for greater, meaningful democratic participation by the public in policy creation, along with reduced self-interest in political decision-making (Rauch 1994; Elshtain 1995; Lasch 1995; March and Olson 1995). Instead of dismissing public opinion as uninformed, efforts should be made to educate and inform the public and provide people with a forum in which to make their voices heard. This approach would provide an opportunity for an informed public to have real (and relevant) input into the development of social policy that can then be championed by their elected representatives.

Policymakers in some jurisdictions have pursued such democratisation initiatives, seeking out new mechanisms to incorporate public perceptions and participation, in the hopes that such involvement might also improve low levels of confidence in government (Green 2006; Indermaur 2008, 2009; Johnstone 2000). Such initiatives may circumvent self-interested policy development, while at the same time avoiding the top-of-the-head opinions found in regular polling. Processes that engender a genuinely involved and informed public ‘judgement’ (as opposed to the less informed public ‘opinion’ (Green 2006) of brief polls and surveys) facilitate a deeper and more nuanced understanding of public perceptions on an issue, allowing for better and more meaningful policy debate.

Deliberative mechanisms have recently been proposed in Australia as a way of encouraging greater public trust in the criminal justice system and incorporating informed public opinion into the development of crime and justice policy (Indermaur 2009). The so-called 'crisis of confidence' in the justice system that is believed to exist in many western countries has been found in Australia as well, as part of an earlier phase of this study (Mackenzie et al 2012).

Obstacles to rational policy development in crime and justice

Sentencing is an area of the criminal justice system that is particularly vulnerable to heavy-handed 'law and order' politics due to the common belief that most people are highly punitive in their opinions on responding to crime, and have low levels of confidence in judges' and magistrates' willingness to hand down appropriate sentences (Mackenzie 2005; Kornhauser 2013). Within such an environment, policy tends to become less innovative, less liberal and less evidence-based as lawmakers concern themselves more with responding to potentially shallow measures of mass public opinion than to seeking more rational, nuanced and considered community views (Kornhauser 2013).

According to Roberts (1992), public perceptions of judicial leniency are widespread across a number of jurisdictions, including Canada, Great Britain, the United States and Australia. Polls examining top-of-the-head opinions have traditionally indicated a large degree of dissatisfaction not only with the perceived leniency of sentences, but also with the criminal justice system in general, including community-based sentences such as parole and probation (St Amand and Zamble 2001). The findings on public perceptions of the criminal justice system in Australia are remarkably consistent with those from other western countries (Gelb 2008).

Evidence of negative public attitudes to crime and justice issues in Australia

A few studies have been conducted in Australia to determine how confident Australians feel in the court system (Gelb 2008; Roberts and Indermaur 2007). The findings of these surveys were consistent with those from other jurisdictions globally, showing that respondents have low to medium levels of confidence in the criminal justice system (Snowball and Jones 2012). This lack of confidence is problematic on a number of levels:

Public confidence has become a priority for a number of reasons: the criminal justice system relies on public confidence as victims need to be sufficiently confident in order to report crime in the first instance; without the co-operation of complainants, witnesses and jurors, prosecutions would not be effective. Public confidence is necessary for the legitimacy and function of the court (Gelb 2008:3).

Roberts and Indermaur's (2007) analysis of the Australian Survey of Social Attitudes (AUSSA 2007) examined the related issue of punitiveness, showing that 70% of those surveyed believed that stiffer sentences should be imposed, and almost half believed the death penalty should be reinstated for murder convictions. Similar results were also found in the first phase of the present research (Mackenzie et al 2012). Higher levels of punitiveness were found among men, older respondents and working-class people. Punitiveness was also predicted by a right-wing political orientation, attending religious services regularly and using commercial television as the main source of news. Finally, having lower levels of knowledge about the criminal justice system, having no confidence in the criminal justice system and believing the police are corrupt were also predictive of higher levels of punitiveness. However, when presented with vignettes and case studies, recent studies have

demonstrated that the public is more likely than not to be lenient in their sentencing of actual cases (Lovegrove 2013; Warner et al 2011).

While surveys have shown that people have low levels of confidence in the courts and high levels of punitiveness, they also reveal that people know relatively little about crime and justice issues (Mackenzie et al 2012). After examining surveys of public opinion across a range of countries, Roberts and colleagues (2003) determined that people in the general community typically have very little accurate knowledge about the criminal justice system. In particular, people overestimate the violent nature of criminal behaviour and underestimate the severity of the criminal justice system's response (Gelb 2008). This lack of knowledge has been shown to predict both low confidence and high punitiveness: people who have poor knowledge of crime and justice issues tend to be less confident in the criminal justice system and more punitive towards offenders (Gelb 2011a, 2011b). In addition, the community's main source of information on criminal justice and sentencing is the media (Roberts and Indermaur 2009), and an association has been demonstrated between media usage and levels of confidence in the criminal justice system (Mackenzie, Spiranovic and Warner 2012).

If a key principle of liberal democracies is that citizens are encouraged to have a voice in the mechanisms of society's institutions in order to have confidence in those institutions, but the voices of those citizens are uninformed, then better educating and informing the populace is surely a matter of priority (Zamble and Kalm 1990; St Amand and Zamble 2001).

Changing public attitudes

Despite the general punitiveness of mass public opinion, there are indications that various interventions can significantly influence people's attitudes. Doob and Roberts (1988) and Indermaur and Hough (2002) both note that increasing knowledge, information and specificity all lead to reduced punitiveness.

One major Australian study has examined the effect on punitiveness of providing additional information to participants about individual offenders and their crimes. Lovegrove (2007) presented detailed information on actual cases to 471 participants. These cases included information on the level of violence involved in the crime, the damage done, the age and criminal record of the offender, the motivation behind the crime, and the remorse felt by the offender. Participants were then asked to impose a sentence on the offender in each of the cases. In three out of four of the cases presented, the sentence that the judge actually imposed in the real-life case was harsher than the median sentence recommended by participants. Seidman Diamond's (1990) study in England showed similar results: when asked to assign a sentence to an individual offender in a specific case, instead of being asked abstract questions about sentencing in general ('Is sentencing too tough, about right or too lenient?'), lay people are no more punitive than professional judges.

Studies of a similar nature have been conducted in a number of countries (including the United States, the United Kingdom, Canada and Australia), and they invariably reach similar conclusions: *informed* public judgement is less punitive and more liberal than top-of-the-head mass public opinion.

The value of informed public judgement to policymakers

Even if we grant that informed public judgement suggests a less punitive orientation, how then might this be reflected in confidence dynamics and metrics? It may be the case that simply involving the public in policymaking will increase a waning confidence in and of itself (Green 2006; Indermaur 2008, 2009; Johnstone 2000). These commentators note a sense of disempowerment when it comes to the public's view of sentencing. It is suggested then, that a more democratic, inclusive process of policy formation is necessary to address these attitudes.

Although involving the public in the development of criminal justice policy may seem like a straightforward undertaking, there are a number of issues making implementation difficult. It is problematic to undertake large-scale information campaigns that include sufficient detail to allow for a thorough appreciation of the issues. And it is equally difficult to seek widespread public comment in a way that allows for considered and thoughtful responses.

To address such issues, it has been proposed that small, representative groups be convened in order to gauge informed public opinion or public judgement. To meet this end, various methods to incorporate informed public attitudes have been proposed, including the development of advisory councils, the use of a mini-populus, involvement in deliberative discussions and participatory policy analysis (Dahl 1970, 1989; Yankelovich 1991; deLeon 1994; Goodin and Dryzek 2006).

Despite the theoretical potential of these approaches, the actual use of such small group methodologies has been scarce. Processes of this type involve significant practical considerations, such as recruitment issues, costs (both in time and money) and the logistics of the event (Berke 1996). However, a number of researchers have adopted this approach across a range of policy areas. In the criminal justice arena, it has perhaps most notably been adopted by Fishkin (1995), who applied the 'deliberative poll' approach to policy issues in the United Kingdom. Fishkin (1995) gathered 300 participants for a two-day forum, during which they were presented with extensive information about criminal justice issues by a series of experts and were then asked to discuss and deliberate on a number of issues. Participants were surveyed both before and after the event in order to determine their attitudes on a range of criminal justice issues. The primary conclusion of the research was that there were measurable effects on public attitudes of the opportunity to learn, discuss and deliberate, with participants providing less punitive and more informed responses after the event (Fishkin 1995).

Although such demonstration projects held great promise for more widespread use of deliberative methods to involve the public in the development of criminal justice policy, in practice this approach has failed to be adopted (Connelly, Wagner and Jones 2001). The logistical difficulties and substantial costs involved in this kind of approach have likely limited its use to the academic, rather than the political sphere. Instead, politicians and policymakers have continued to prefer more traditional polling methods that measure top-of-the-head opinion, and have continued to rely heavily on media portrayals of mass public opinion. Thus, the more nuanced and sophisticated views inherent in informed public judgement are missed by policymakers, who instead fall back on their perceptions of mass public opinion in their justifications for 'tough-on-crime' policy and legislation. While this approach clearly suits some of today's politicians who have specific agendas to pursue, it does not necessarily reflect an accurate picture of the values, priorities and worldviews of the community that these elected representatives serve.

The current research

Until the project discussed here, few studies had measured people's levels of punitiveness relative to crime seriousness, public knowledge about crime and justice, and the ways in which public attitudes change when people are better informed (Indermaur 2008). In fact, only a handful of projects have endeavoured to quantify these issues in the past 40 years (Mackenzie et al 2012). For the most part, these studies measured broad public opinion by using a standard questionnaire method. Very few attempted any type of intervention to examine whether people's opinions were subject to change, and even fewer allowed for the issues to be discussed or deliberated upon by participants.

This project aimed to use more sophisticated methodologies to measure people's attitudes to crime and justice, to determine if these attitudes were subject to change following various interventions, and to examine the durability of any attitudinal change. This article is focused on one part of the overall project: examining whether an opportunity to learn about criminal justice and to discuss and deliberate on the issues would change participants' attitudes.

Method

Methodology of the full project

The research as a whole used a four-phase approach, conducted over a 12-month period. The first phase of the project involved a national computer-assisted telephone interviewing (CATI) survey of 6,005 participants. Those surveyed were assessed according to a Likert scale on several dimensions relating to their current stance on punitiveness, confidence in the courts and alternatives to imprisonment. The second phase of the project involved a number of Phase 1 participants who self-selected to participate further in the research. Some of these were invited to participate in a survey that involved providing some information and context to the questions: a moderate form of intervention that aimed for somewhat more informed responses. The third phase of the project, with which this article is concerned, involved a different set of those self-selected participants who agreed to participate in the most intensive of the interventions: a small group deliberative discussion.

Objectives of the small group methodology

One of the main aims of the Phase 3 small group deliberative discussions was to test whether this approach could have some value in gauging informed public judgement on Australian criminal justice issues. The groups were designed to examine the extent to which informed public judgement could be elicited via information, discussion and deliberation, thereby providing a platform from which policymakers could potentially identify and incorporate informed public judgement into the development of criminal justice policy.

The other aim of the groups was to identify how the provision of more detailed information — arguments for and against certain propositions, background information and contextual information on the criminal justice system — would influence people's attitudes to sentencing.

Variations from the original methodology

In the original research design, it was proposed that small deliberative groups, drawn from a subgroup of participants in the larger study (n=6005), would be convened in Phase 3 of the research, to explore in detail several policy issues. These deliberative groups were to be

conducted under one of four conditions to control for the demand effects that might occur using a process of this type. The proposed conditions included: (a) Traditional — where expert input about relevant issues would be presented via a pre-recorded DVD, followed by group discussion and the documentation of individual responses; (b) Debate — where input would be given to participants via another pre-recorded DVD, this time outlining opposing policy positions followed by documentation of individual responses; (c) Public Driven — where the public would be asked to provide questions or additional information needs prior to the group meeting, and then engage in a group discussion designed to produce a consensus; (d) Alternative Consensus — where input from opposing policy positions would be provided to participants, again through a pre-recorded DVD (similar to the procedure in (b)), however in this instance they would be asked to come to a consensus through a process of deliberation.

It was proposed that each of the four conditions would run in Victoria, Queensland and Western Australia. In order that individuals' opinions before and after deliberation of this type could be assessed, participants would also be given a questionnaire at the end of each focus group that addressed some salient questions from the initial, more comprehensive questionnaire given to the entire sample (Phase 1: $n=6005$).

The fourth and final phase of the project involved a final follow-up survey to test the longitudinal persistence of any changes in people's responses over the course of the research. This phase would involve participants from each of the intervention phases (Phases 2 and 3) as well as those from the original phase (Phase 1) to act as a control group.

This proposed methodology was intensive and ambitious on a number of levels, including the number of participants, the costs associated, the time necessary, as well as the difficulty in maintaining consistency between so many groups in different areas of the country. Although each of these elements played a role in the modification of the proposed methodology for the deliberative groups, the most salient of these difficulties was associated with gathering the large sample. The other significant factor was the reduced level of funding provided by the funding agency, and the necessary reshaping of this phase of the research to fit the available budget, without compromising the original project objectives.

As this small group research was part of the larger study undertaken on a national sample, it was originally envisaged that sampling difficulties would be overcome by recruiting individuals to participate in this phase of the research. However, since the original participants in Phase 1 were randomly selected, and asked to participate in additional phases including the Phase 3 focus groups, this additional sampling became problematic, as the available sample had to be split between Phases 2 and 3. Those who did agree to participate in further phases of the study were proposed to be involved in either Phase 2 (a more detailed version of the original survey in Phase 1) or Phase 3 (the deliberative groups). However, because the number of participants who agreed to participate further after Phase 1 was lower than expected, the research team was forced to decide whether it would be more beneficial to the overall project to split these low numbers across Phases 2 and 3, or to choose only one of the phases and attempt to maintain more robust sample sizes there. The former option was selected; and Phase 3 was thus left with fewer participants than expected, so a simplified and much less ambitious methodology using Alternative Consensus was adopted.

A further issue was that many of the respondents available to participate in Phase 3 were in regional or remote areas, thus further reducing the available sample size. Invitations were sent to potential Phase 3 participants within 100 km of each city where the groups were conducted (Brisbane, Melbourne and Perth), however distance was a limiting factor in convening the small groups.

Simplified methodology

Following the decision to focus the participant resources across Phases 2 and 3, cost and logistic factors limited Phase 4 to four small groups held in Brisbane, Melbourne and Perth (2), involving 10–12 people each. After some participant attrition, the final number of participants across the four groups was 39. The methodology was piloted on two groups of mixed undergraduate and postgraduate students.

Participants were each asked to view a pre-recorded DVD where they were presented with opposing policy statements about two sentencing issues: mandatory sentences of imprisonment and the use of alternatives to imprisonment. The order of presentation of each topic was changed for each group. The DVD presentations were scripted by the research team, and aimed to give a balanced view for and against each topic. They were professionally produced, using an experienced broadcaster. The presenter stood in a courtroom and described the issues in laymen's terms in a journalistic style.

In relation to mandatory sentencing, the presenter provided policy arguments for and against. An experienced professional facilitator, independent of the research team, was used for all four groups to ensure consistency, and followed a set format in facilitating each group. The deliberative discussions were viewed by members of the research team through two-way glass (with the knowledge of the participants), and feedback given to the facilitator during the midway break of the three-hour deliberation, at which time refreshments were served to the participants. Participants were asked to discuss and deliberate on whether mandatory sentences of imprisonment should be more widespread.

The second presentation outlined some of the research regarding alternatives to imprisonment. Participants were once again asked to discuss and deliberate on whether there should be more use of alternatives to imprisonment, or whether current trends of increasing imprisonment rates should continue.

One of the constraints within which the groups ran was that participants were asked to come to a consensus about the issue being discussed. This constraint was implemented so that participants would experience some sense of responsibility for their opinions and were asked to discuss and deliberate and present their arguments for a position until a consensus was reached.

Upon completing the small group discussions, participants were asked to answer a series of questions measuring punitiveness, confidence in the courts and acceptance of the use of alternatives — the same measures that were used in the original Phase 1 survey. The responses were then compared to the ones given by the participants in Phase 1 to determine whether the process of discussion and deliberation in a small group setting was associated with any change in opinion. Finally, six months after participating in the small group sessions (Phase 3), the participants were once again contacted and asked to complete the final questionnaire (Phase 4), which included the same measures of the three constructs. This was done to identify whether any changes to opinion after the small group deliberations were maintained over time.

Results

A significant outcome of this phase of the research was the generation of some valuable qualitative data in relation to the dynamics and deliberative foci of the group conversations. The qualitative analysis will be explored in a separate article. The focus of this article is the

quantitative analysis of participants' responses on the measures of the three dependent variables and whether these responses changed over time — from Phase 1 to Phase 3 to Phase 4. This allows for an examination of whether participation in the group discussions — the most intensive of the interventions in this research project — influenced participants' opinions, and whether any changes seen in their opinions were maintained over time.¹

Demographics

The average age of the 35 Phase 3 participants for whom data are available across Phases 1, 3 and 4 was 54 years, with the youngest person being 22 and the oldest 73 years. There were 15 participants in the Western Australian groups (42.9% of all Phase 3 participants), with 10 each from Queensland and Victoria (28.6% each).

Dependent variables – confidence in sentencing

Confidence in sentencing was measured via a scale of seven items (mean = 19.70, SD = 5.62) that had very good reliability (Cronbach's alpha = 0.84). The individual items that were combined to form the scale were as follows:

- The individual judge is the best person to choose an appropriate sentence for each case.
- I am satisfied with the decisions that the courts make.
- I have confidence that judges impose an appropriate sentence most of the time.
- Judges are in touch with what ordinary people think.
- How confident are you that the penalties or punishments given to offenders are appropriate?
- How confident are you that the courts are effective at giving punishments which fit the crime?
- How confident are you generally in the courts and the legal system?

The first four items were measured on a five-point Likert scale, ranging from 1 = 'Strongly disagree' to 5 = 'Strongly agree'. The final three were measured on a different scale, with 1 = 'Not at all confident', 2 = 'Not very confident', 3 = 'Neither', 4 = 'Fairly confident' and 5 = 'Very confident'. Individual item responses were added to compute a scale score for each respondent, with a possible score ranging from 7 to 35; a higher score indicating a higher level of confidence in sentencing.

When it came to the confidence these participants had in the sentencing of offenders, small changes in attitudes were apparent after the small group deliberations. That is, the deliberative process, as well as the additional information offered in the DVD presentations, seemed to have a small effect, increasing participants' levels of confidence in sentencing. Interestingly though, these effects did not occur immediately after the small group discussions, but after the longer period that was measured by the Phase 4 questionnaire. It should be noted that these effects may not, in fact, be due to the information available to these participants in the small groups, nor the consensus that was reached through this methodology, but simply by virtue of being involved in the research project itself. The findings are summarised in Table 1.

¹ As the estimates over time are not independent, generally t-tests would be used for such an analysis. However, given the small number of participants in this research, t-tests were not employed. In practice, the use of t-tests would likely not have made much difference to the conclusions drawn from the results, as the differences found were small.

Table 1: Mean confidence in sentencing scale scores across Phases 1, 3 and 4

Phase	N	Min	Max	Mean	Std Dev
1	35	8	28	18.8	5.2
3	35	7	28	18.2	5.5
4	35	8	32	20.8	6.5

The summary table shows that, immediately after participation in the Phase 3 small groups, the effect of this intervention seemed to be negligible or perhaps even in the opposite direction to that hypothesised. Specifically, after having participated in the small group deliberations, participants seemed to be even less confident ($\mu = 18.2$) in sentencing than they were in Phase 1 ($\mu = 18.8$), although only slightly. However, when Phase 4 data are added, it seems that the predicted effect was present, with the average confidence score increasing ($\mu = 20.8$), as well as the maximum score increasing (from 28 to 32), while the minimum score went back to the Phase 1 level.

Dependent variables – punitiveness

Punitiveness was measured via a scale of seven items (mean = 23.97, SD = 5.60), and also had very good reliability (Cronbach's alpha = 0.84). The individual items that were combined to form the scale were as follows:

- The death penalty should be the punishment for murder.
- People who break the law should be given stiffer sentences.
- The courts are too soft on offenders.
- The tougher the sentence, the less likely an offender is to commit more crime.
- Rehabilitation is not taken seriously by criminals.
- High crime rates are mainly an indication or sign that punishments are not severe enough.
- The most effective response to crime is to have harsher sentences.

As with the confidence scale, items were measured on a five-point Likert scale, ranging from 1 = 'Strongly disagree' to 5 = 'Strongly agree', resulting in a scale with a possible score ranging from 7 to 35. Higher scores on the scale indicate a higher level of punitiveness.

Once again, small effects were noted after the small group discussions. The deliberative groups, as well as the additional information offered in the DVD presentations, seemed to have a small effect, decreasing participants' levels of punitiveness. In this instance, it appears as though levels of punitiveness decreased after participating in the small groups (Phase 3), but then levelled off after a period of time (Phase 4). These findings are summarised in Table 2.

Table 2: Mean punitiveness scale scores across Phases 1, 3 and 4

Phase	N	Min	Max	Mean	Std Dev
1	35	11	34	24.1	6.4
3	35	9	35	22.0	7.6
4	35	10	34	22.9	7.0

Despite the promising effect of the small group discussions on immediate levels of punitiveness, these judgements seemed to return almost to their previous levels after time. Specifically, after participating in the small group deliberations, participants' punitiveness scale scores decreased (they became less punitive) from an average of $\mu = 24.1$ (out of a possible 35) to $\mu = 22.0$. However, as is apparent from the results of the Phase 4 survey, after time, these effects seemed to level off, as punitiveness scale scores increased once again ($\mu = 22.9$). It should be noted, though, that small effects did remain. That is, even after these short periods, people still maintained some of the tendencies toward leniency they had acquired through the additional information and deliberative process in Phase 3.

Dependent variables – acceptance of alternatives to imprisonment

As with confidence and punitiveness, participants were asked about their willingness to accept the use of alternatives to imprisonment for specific types of offender. Again, a five-point Likert scale was used, ranging from 1 = 'Strongly disagree' to 5 = 'Strongly agree' and responses were added to compute a scale score for each respondent (mean = 18.05, SD = 3.39, Cronbach's alpha = 0.66). Higher scores indicated greater acceptance of alternatives to imprisonment. The items for this measure were as follows:

- Fewer prison sentences should be given to non-violent offenders.
- Instead of going to prison, young offenders should have to take part in programs that teach job skills, moral value and self-esteem.
- Instead of going to prison, mentally ill offenders should receive treatment in mental health facilities.
- Instead of going to prison, non-violent offenders should be given community corrections orders.
- Instead of going to prison, drug-addicted offenders should be put on an intensive program of rehabilitation and counselling.

Small effects were observed after the small group deliberations on this third dependent variable. Specifically, the deliberative groups, as well as the additional information offered in the DVD presentations, seemed to have a small, positive effect on the levels of acceptance of alternatives to imprisonment. Interestingly though, these effects took on much the same pattern as those related to punitiveness. Although these effects seemed to be quite strong immediately after the small group discussions, they levelled off to some degree after time. These findings are summarised in Table 3.

Table 3: Mean acceptance of alternatives to imprisonment scale scores across Phases 1, 3 and 4

Phase	N	Min	Max	Mean	Std Dev
1	35	9	25	18.6	4.0
3	35	13	24	20.4	2.6
4	35	13	25	19.3	3.0

After participating in the small group deliberations, participants' acceptance of alternatives scale scores increased (they were more accepting of the use of alternatives to imprisonment) from an average of $\mu = 18.6$ (out of a possible 25) to $\mu = 20.4$. However, after time, these effects seemed to level off, as scores decreased once again ($\mu = 19.3$). It should be noted though that some small effects did remain. That is, even after time, people still maintained some of the acceptance of alternatives to imprisonment they had acquired through the additional information and deliberative process in Phase 3.

Discussion

For all three of the dependent variables in this research, the small group methodologies had the anticipated effects on people's attitudes. That is — in the quest to increase confidence in sentencing and acceptance of alternatives to prison, and to decrease punitive judgements — small group deliberations, with the benefit of hearing arguments on both sides of the issue and having the opportunity to discuss and deliberate, were effective at influencing and changing people's opinions.

It is curious that participants' confidence in sentencing actually dropped slightly immediately following the deliberative session, before increasing over the six-month period between Phases 3 and 4. It is possible that the arguments presented in the DVD, and the discussion among the groups following the presentation, were somewhat confusing in the participants' eyes, or perhaps were greeted with some scepticism. If this were the case, then clarity of opinions might have been compromised during the sessions itself. It is possible, however, that over the intervening period until the Phase 4 survey, participants had the opportunity to digest and reflect upon the information they had learned and the discussions that were held, with their views on sentencing slowly coalescing as time progressed.

On the other hand, for punitiveness and acceptance of alternatives to imprisonment, the method seemed to have a larger effect immediately after the groups, which then levelled off to some extent as time passed. This may indicate that a lack of further engagement in discussions about these and related issues may lead people to return, and do so rather quickly, almost to their previous opinions. This lack of durability of attitude change is not necessarily a problem for the policymaker who wishes to incorporate informed public judgement into the development of criminal justice policy. The implications are merely that public judgement on these issues, as facilitated by the deliberative method, should be captured at the time of the session.

Given the contradictory findings on the timing of greatest attitude change among participants in these deliberative groups, the most appropriate path for policymakers may well be to consider measuring informed public judgement more than once over an extended period. Such an approach would allow not only for capturing people's immediate responses to information, discussion and deliberation, but would also for the slower development of thoughts when required. This dual-measurement approach of course requires greater resources in terms of costs and time than does a single measurement, but it may be more likely to produce a more accurate picture of public attitudes.

While movement in people's attitudes were evident in this study, the changes were not large. It is possible that the small sample size influenced these findings, but it also possible that the nature of the discussions themselves prevented larger scale shifts in opinion. In particular, despite the opportunity to discuss and deliberate, the discussions about mandatory sentences and alternatives to imprisonment both remained abstract discussions. Unlike the Tasmanian jury sentencing study (Warner et al 2011), this research did not include discussions of specific cases. It may well be that abstract opinions are more difficult to shift — even with the opportunity to hear information and discuss and deliberate — than are opinions on specific cases. This possibility remains to be tested in future research.

Thus, the findings of this research provide a good indication that people can be moved by the provision of relevant information, the opportunity to discuss arguments, and the chance to deliberate about a preferred position on issues of immediate relevance to criminal justice policymakers. By showing that small group deliberations *can* influence changes in people's opinions, this study lays a foundation for further research about the *ways* in which these groups facilitate such attitudinal change. In addition, this research shows that considered, thoughtful deliberation can be useful as a way of gathering informed public judgement and providing the public with a way of having input into the development of criminal justice policy.

Limitations of the current study

Despite the basic goals of this part of the project being borne out in the results discovered, a number of limitations may be identified.

Although not evident in the basic results presented in this article, it is apparent that there was some level of confusion surrounding the concepts and information provided in the pre-recorded DVDs. Some of the participants did not fully understand the information that was presented in the DVD, which led to subsequent discussions perhaps not maintaining the level of focus that the research required. This confusion may have been caused by an oversimplification of the content: as the wording of the information provided to participants was standardised across Phases 2 and 3 of this project, some of the details that may have been useful for participants in Phase 3 had to be omitted. This may have had the effect of oversimplifying the information, so participants were still not fully clear on the concepts involved.

Despite the best efforts at neutrality by the researchers who prepared the script for the DVD presentations, some participants questioned the objectivity of the information presented, and voiced doubts during the deliberative process whether they were being presented with 'even-handed' arguments, or whether the aim of the groups was to move them toward less punitive opinions. This was particularly evident in the Brisbane group, where the opinions were more polarised, and some members of the group had particularly

strong views on the discussion topics. The perceptions of bias on the part of the DVD presenter (a broadcast professional), appeared to be driven by the participants' preconceived views in relation to leniency of the courts, and thus the balanced view presented was seen to be biased by some.

Finally, the key limitation of this part of the overall research project is clearly its small sample size. The sample size was severely limited by logistics and the need to preserve participants for other parts of the project; but also by availability of those willing to participate and their ability to access a venue for the face-to-face discussion groups. While the planned sample of 300 would have provided a far more robust basis on which to examine the impact of small group deliberations, it still may not have sufficed to allow the results to be generalisable. Given the rather substantial time commitment involved in participating in this phase of the research (the deliberations on their own took 3 hours), it is possible that those who agreed to participate were more likely to be those who had more time to spare: the rather high average age of participants is indicative of such an effect. Thus, no matter the sample size, the generalisability of the research is limited. Despite this limitation, the research does provide a useful example of the ability of small group deliberations to change people's opinions and thus to allow for more considered, thoughtful responses.

Future research

Despite the limitations of this part of the project, it is clear that this type of research certainly has some utility in the criminal justice policy landscape and its ability to reflect informed public judgement. The goals of the research were borne out, which shows promise for similar methodologies to be employed in the future. In order to improve future research outcomes, however, some recommendations for improvement might be suggested.

Ideally this type of research should be done on a larger scale, notwithstanding the significant funding implications that this brings. Samples of participants need to be larger and more diverse, drawn from regional and urban areas, among younger and older participants of different ages, ethnicities, educational backgrounds and political positions. This approach would not only allow for greater generalisability of the findings, but would also identify whether the small group deliberative methodology is viable for different populations.

It would also be useful to experiment with other information tools to determine both the optimal type of information to which people can respond, as well as the best ways in which to deliver the information. It may also be necessary to provide greater detail in the information given to participants: the oversimplified content of the DVD presentations may have led to the loss of some level of detail in the discussions that would have made for a richer qualitative analysis.

Finally, it would be useful to have longer follow-up periods, measuring people's opinions after an extended period (or over multiple extended periods) to determine whether any changes in opinion that emerge from the deliberative process are maintained over short-, medium- and long-term periods. This additional element would identify whether these types of methodologies are successful in the longer term.

Conclusion

It is apparent that, despite the liberal democratic ideal of law and policy formation being genuine expressions of the public consciousness, there are many difficulties associated with actually implementing greater public inclusion in the democratic decision-making process. The research presented here illustrates two important points: first, the theoretical point of the value of public input; and second, the practical implications and logistics of putting such theories into practice. It is apparent that, although resource-intensive, small group methods are useful in both informing the public about issues related to criminal justice and gauging their informed judgements. The research provides a useful example of the ability of small group deliberations to change people's opinions and thus to allow for more considered, thoughtful responses.

It is hoped that, with further improvements to the methodology, more advanced studies will be able to build on this research and take advantage of the wealth of nuanced ideas and opinions the Australian public has to offer.

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