







## ORIGINAL ARTICLE

# Public support for second look sentencing: Is there a Shawshank redemption effect?

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## Abstract

**Research Summary:** Washington, DC has implemented second look sentencing. After serving a minimum of 15 years in prison, those convicted of a serious offense committed while under the age of 25 years can petition a judge to take a “second look” and potentially release them from incarceration. To examine both global and specific support for second look sentencing, we embedded experiments in a 2021 MTurk survey and in a follow-up 2022 YouGov survey. Two key findings emerged. First, regardless of whether a crime was committed under 18 years or under 25 years of age, a majority of the public supported second look sentencing. Opposition to the policy was low, even for petitioners convicted of murder. Second, as revealed by vignette ratings, respondents were more likely to support release when a petitioner “signaled” their reform (e.g., completed a rehabilitation program, received a recommendation from the warden) and had the support of the victim (or their family).

**Policy Implications:** The critique of mass imprisonment has broadened from a focus on the level of incarceration to the inordinate length of sentences being served by some prisoners. Policies are being proposed to reconsider these long sentences and to provide opportu-

nities for earned release. Second look sentencing in DC is one of these reforms. Our research suggests that many members of the public believe in a “Shawshank redemption” effect—that those committing serious crimes as a teenager or young adult can mature into a “different person” and warrant a second look, with the possibility of early release if they have earned it. A key issue is likely to be how much weight is accorded to the preference of victims or their families in any release decision.

**KEYWORDS**

mass incarceration, redemption, rehabilitation signals, second look sentencing

According to voting (using a 1-to-10 scale) on released films, *The Shawshank Redemption* is IMDb's top-rated movie of all time, narrowly edging out *The Godfather* (9.3 to 9.2) (Elvy, 2020). It is also the 11th most watched movie according to IMDb (Moviefreak, 2016). At the core of the film is the relationship between two prison inmates—Andy Dufresne (played by Tim Robbins), falsely accused of murdering his wife and her lover, and Ellis Boyd “Red” Redding (played by Morgan Freeman), serving a life sentence for a crime committed decades earlier.

A poignant exchange occurs when Red has his third parole hearing after 40 years in prison. When asked if he is “rehabilitated,” he makes no effort to appease the board: “To me it’s just a made up word. A politician’s word, so young fellas like yourself can wear a suit and a tie, and have a job.” He then continues, “What do you really want to know? Am I sorry for what I did?” He then offers a heartfelt response that earns him release from the fictional Shawshank State Prison:

There’s not a day goes by I don’t feel regret. Not because I’m in here, or because you think I should. I look back on the way I was then: a young, stupid kid who committed that terrible crime. I want to talk to him. I want to try and talk some sense to him, tell him the way things are. But I can’t. That kid’s long gone and this old man is all that’s left. I got to live with that. (“Famous Speeches: The Shawshank Redemption,” 2008)

Red’s comments reveal a conundrum inherent in long-term incarceration: The person who committed a serious crime as a juvenile or early in adulthood may not be the same person 15, 20, or 30 years later. Age often brings maturational reform and eventual desistance from crime, with the anger, impulsivity, and antisociality of youth left behind (Matza, 1964). As with any life course, turning points can occur in prison, such as acquiring educational degrees and vocational skills, adopting redemption scripts, or joining a prison ministry in service of others (Cullen & Jonson, 2011; Johnson et al., 2022; Maruna, 2001; Sampson & Laub, 1993). What is the point of keeping someone incarcerated if they have become a good person who no longer poses any danger?

Two arguments can be made in favor of keeping the prison door slammed shut. First, prediction is not perfect. An inmate’s apparent reform might be a well-performed con. Even if not, a reentering

person can encounter criminogenic circumstances that lure them back into crime. There is no guarantee that early releasees will not reoffend. If they do, this is a self-imposed harm because the option of continued incarceration existed. Second, justice is subverted if the price for a crime has not been fully paid. When an individual convicted of murder is set free, the victim's family can rightly claim that their son or daughter is never going to enjoy the experiences—such as marriage, parenthood, and old age—now accorded this “reformed” person.

Yet considerations of utility argue in favor of releasing prisoners who have truly changed. The case for justice loses its persuasiveness as time served lengthens. Fifteen or 20 years behind bars is not a slap on the wrist; a severe price has been paid. The continued incarceration of reformed individuals is costly and does not enhance public safety (Bonta & Andrews, 2017; Jonson, 2013; Petrich et al., 2021). The incapacitation purpose of imprisonment has been vacated. Furthermore, beyond justice, correctional institutions are intended to correct. Giving inmates incentives to work toward their reform and earn their release is a social good. In fact, surveys show that the public has long supported rehabilitation as a goal of prisons (Cullen et al., 2000; Lee et al., 2022; Thielo et al., 2016).

Developments in Washington, DC have moved this issue from the realm of speculation into the realm of concrete policy consideration with the passage of statutes enacting “second look sentencing.” As explained below, elected officials in DC have implemented two laws allowing offenders convicted of very serious offenses to petition a judge to take a “second look” at their sentence after they have served a minimum of 15 years. Is there evidence that a good person now exists who should no longer be defined by an act committed in the throes of youth? Has a “Shawshank redemption” transpired, as with Red? Immediate release, delayed release, and no release are all judicial options.

The current project assesses public support for second look sentencing, exploring opinions drawn from two national-level samples. It does so by embedding two experiments in two separate surveys. One experiment gauges global support for the second look policy, varying whether the policy applies to those under 18 years or under 25 years of age. The second experiment explores whether support for second look sentencing is conditioned by characteristics of the offense, offender, and institutional conduct. The goal is to examine whether public opinion is favorable to reducing lengthy sentences for violent crimes committed while young and, if so, whether certain factors shape preferences for who should be prioritized for release. As a prelude to presenting these results, the evolution of sentencing reform in Washington, DC is discussed and the possibility of its support across the United States is considered.

## 1 | SECOND LOOK SENTENCING IN WASHINGTON, DC

Second look sentencing reform in Washington, DC occurred in two stages. First, the Incarceration Reduction Amendment Act (IRAA) of 2016, which went into effect in 2017, applied only to those who were under the age of 18 years when they committed serious crimes (e.g., murder, rape) that received sentences of several decades. After serving a minimum of 20 years in prison, the law now allowed these offenders to petition the judge for a possible resentencing. In effect, they could ask the court to take a “second look” at their original sentence. As Alexander (2018) notes, the “D.C. Council crafted” the statute “on the basis of a growing consensus that juvenile criminals, whose brains aren’t fully mature, should not receive adult sentences of decades in prison.”

The challenge for petitioners was to show that they had in fact changed and no longer posed a danger to the community. Kareem McCraney was the first person to be released under the Act.

He was convicted of a 1997 murder and sentenced to 35 years in prison. He was released after serving 21 years behind bars, with the judge putting him on a probationary period of 5 years. During his incarceration, McCraney earned a GED and then an associate's degree in paralegal studies. At his judicial hearing, the victim's niece told the judge that she did not oppose a sentence reduction. Upon release, he served as a youth mentor, participated in a paralegal fellowship program at Georgetown University, and became a program analyst for the District's Corrections Information Council (Alexander, 2018; Ghandnoosh, 2021). Under the IRAA, 53 people, including McCraney, were released. According to Alexander (2020), none had reoffended at the time of his reporting and "many of them now work as youth violence prevention counselors in the city" (Sakala & Courtney, 2020).

Second, The Second Look Amendment Act of 2019, which went into effect in April 2021, extended the IRAA to cover offenders under the age of 25 years at the time they violated a DC law.<sup>1</sup> Eligibility to file a petition was reduced from 20 years served of a sentence to 15 years. Prisoners can petition the court a maximum of three times, with each petition separated by at least 3 years. If a petition is granted, the court may reduce the sentence, including mandating the person's release. In making this decision, the Act lists a variety of factors a judge might consider, including the defendant's age at the time the offense was committed and a history of abuse as a child.<sup>2</sup> The key consideration is "whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society to justify a sentence reduction." Toward this end, the court will weigh the petitioner's institutional behavioral record, completion of programs (e.g., educational, vocational), and reports from licensed healthcare or psychiatric professionals (Council of the District of Columbia, 2021). As one advocacy group notes, the process of collecting all of these records "can take a least a year" and requires a pro bono lawyer (The Second Look Project, 2021).

Remarkably, the Act contains a clear statement for why those up to age of 25 years merit a second look at their sentences. The court is instructed to consider:

The diminished culpability of juveniles and persons under age 25, as compared to that of older adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime, and the defendant's personal circumstances that support an aging out of crime. (Council of the District of Columbia, 2021)

This insight is based on a view within psychology that those between the ages of 18 and 25 years are in a distinct developmental stage called "emerging adulthood." Arnett (2000) introduced this concept in a celebrated *American Psychologist* article in which he offered "a theory of development from the late teens through the twenties" (see also Arnett, 2016). This period is proposed to be distinct socially and psycho-biologically. In industrial societies, the 18–25 period is marked by social role instability as individuals experiment with diverse "life directions in love, work, and worldviews" (Arnett, 2000, p. 469). Compared with earlier generations, they marry and have children later, change residences more frequently, and often do not settle quickly on an occupation. Psychologically, it is a time when they explore their identity. Most salient, research shows that although maturation is occurring, brain development continues during this period—one consequence of which is heightened risk-taking activity such as substance abuse, driving at high-speeds and/or under the influence of drugs/alcohol, and engaging in unprotected sex (Arnett, 2016; Craig & Piquero, 2016). Based on their review of the evidence, Farrington et al. (2012, p. 741) "conclude that young adult offenders aged 18–24 are more similar to juveniles than to adults with respect

to features such as their executive functioning, impulse control, malleability, responsibility, susceptibility to peer influence, and adjudicative competence.” This reality has led to calls to increase the age at which young adults are referred to adult court, “legally raising the age of juvenile jurisdiction to age 21 or 24” (Farrington et al., 2012, p. 742). Other options include creating a separate court for this age group and treatment options responsive to the needs of emerging adults (for a discussion, see Cauffman, 2012; Gibson & Krohn, 2012).

Notably, the U.S. Attorney’s Office in the District of Columbia, “which prosecutes most local felonies and was then led by Trump-appointed Jessie Liu, strongly opposed the bill” (Ghandnoosh, 2021, p. 28; see also Serota, 2022). Their press release ignored the developmental stage of offenders when the commission of crimes occurred and the rigorous second-look process that precedes any inmates’ release. Instead, the commentary framed the Act as coddling predatory offenders, by giving “over 500 violent criminals (including rapists and murderers) . . . an opportunity to reduce their sentences” (United States Attorney’s Office, District of Columbia, 2019). The Office portrayed the time served as being “only 15 years in prison,” thus upending truth in sentencing. The Office warned that the “Second Look Amendment re-victimizes victims and ignores public safety in the district.” Finally, the Office stressed it favors the rehabilitation of nonviolent offenders, noting that it sponsors “nine diversion programs including one focused on restorative justice.” Again, the Act was passed by the D.C. Council over these and similar objections (Grablick, 2020).

## 2 | BEYOND WASHINGTON, DC

An important issue is whether and in what circumstances the public across the United States will endorse Washington, DC’s second look sentencing reform. One reason to be cautious is that local residents in the District of Columbia—and the officials they elect—tilt far to the Left. For example, in the 2020 presidential election, Joe Biden received more than 9 in 10 votes; Donald Trump’s count was 5.4% (Board of Elections, District of Columbia, 2020). Still, reasons exist to expect that the broader U.S. electorate might be open to taking a second look at sentences.

First, polls show that the public punitiveness that helped fuel mass incarceration and get-tough policies has been in marked decline for decades (Enns, 2016; Pickett, 2019). Gallup polls show this trajectory (see Figure 1). Support for capital punishment reached 80% in 1994 but decreased to 54% in 2021 (Jones, 2021b; Pickett, 2019). For the first time, when asked (in a Gallup poll) what is the “better punishment for murder,” more Americans now favor “life imprisonment with absolutely no possibility of parole” (60%) over the death penalty (36%) (Death Penalty Information Center, 2019). Figure 1 also reports trend data from the General Social Survey (GSS), which reveal similar results. According to the GSS, 75% of the public supported the death penalty in 1994, which then dropped to 56% in 2021. Those saying that courts were not harsh enough also experienced more than a 30-percentage point decline (85% in 1994 to 54% in 2018; GSS Data Explorer, 2022a).

One concern is that recent rises in violent crime could interrupt, if not reverse, this trend, especially if conservative politicians repurpose past get-tough rhetoric. In all likelihood, however, it would take a sustained period of rising crime to precipitate a new era of punitiveness. So far—in an admittedly short time span—punitiveness has not spiked up (see Figure 1). Gallup polls show that between 2018 and 2021 support for the death penalty continued to decline (from 56% to 54%; Gallup, 2022). GSS data reveal a similar downward trend, with support for capital punishment falling from 60% in 2018 to 56% in 2021 (GSS Data Explorer, 2022b). In part, this might be because crime increases are most often framed as an outgrowth of the disruption caused by the COVID-19 pandemic, a legitimacy crisis surrounding policing in the aftermath of the George Floyd killing,

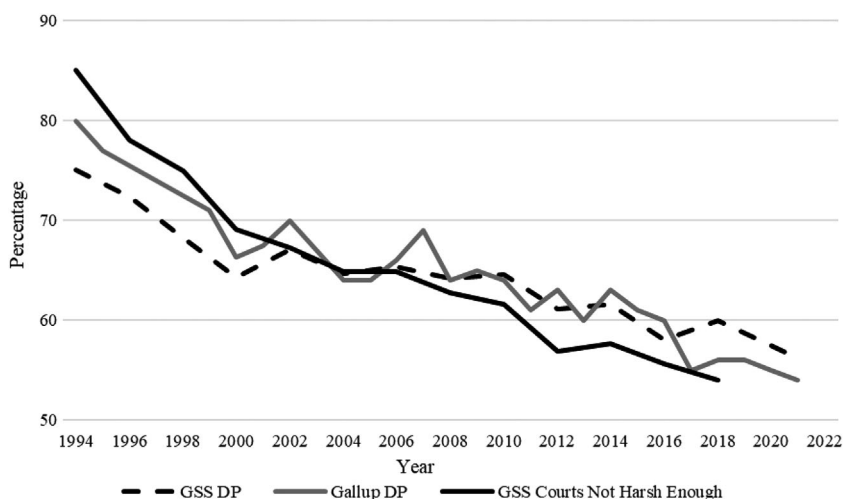


FIGURE 1 Declining public punitiveness from 1994 to present

Note: Gallup Poll question: “Are you in favor of the death penalty for a person convicted of murder?” General Social Survey death penalty question: “Do you favor or oppose the death penalty for persons convicted of murder?” GSS harsher courts question: “In general, do you think the courts in this area deal too harshly or not harshly enough with criminals?”

and liberal prosecutors’ bail reforms that are allegedly turning loose predators—not the failure to imprison convicted felons for longer sentences (Grawert & Kim, 2022).

Furthermore, there is beginning evidence that the “crime wave,” to the extent that it ever existed, is receding. The commission of some crimes went up, whereas others did not—and this varied by year. Most attention was given to homicides, which rose nearly 30% in 2020 (Grawert & Kim, 2022). This disquieting increase appears to have slowed. The Major Cities Chiefs Association (2022) has published violent crime data for the first six months (January 1–June 30) for both 2021 and 2022. Compared with 2021, homicides during this period decreased 2.4% (from 4624 to 4451) and fell in 41 of the 70 cities surveyed (see also Contreras, 2022). Equally instructive, the National Crime Victimization Survey reported that violent crime declined 22% from 2019 to 2020 (Morgan & Thompson, 2021), and that the “overall violent victimization rate did not change between 2020 and 2021” (Thompson & Tapp, 2022, p. 1). Gallup reports similar results, finding that in 2021, “5% of U.S. households and 3% of U.S. adults were victimized by at least one of three violent crimes measured in its Crime survey. Both figures are unchanged over the past three years” (Jones, 2021a).

Second, over the past decade or so, mass incarceration lost its appeal as the lynchpin of U.S. crime-control policy (Petersilia & Cullen, 2015). This new “sensibility” about prisons, to use Tonry’s (2004) term, was captured by Clear and Frost (2014) who observed that “the Punishment Imperative, dominant for more than a generation, has now run its course” (p. 159). Reflecting this context, Michelle Alexander’s (2010) *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* became an iconic book, selling more than one million copies and spending nearly 250 weeks on *The New York Times* Nonfiction Best Seller’s list (Frank-Collins, 2021). The harsh reality of various “wars” on drugs and crime increasingly touched many lives, both personally and vicariously. Enns et al. (2019) documented, for example, that by 2018, 45% of Americans had experienced the incarceration of an immediate family member. Although this figure was higher for Blacks (63%) and Hispanics (48%), more than 4 in 10 Whites (42%) had witnessed a family member being locked up.



Statistics show the turning point in incarceration policy. In 2010, the state and federal prison population declined for the first time in 39 years (Glaze, 2011). Between 2009 and 2019, the decrease occurred every year, leading to an 11.4% reduction in imprisoned people over this period (Carson, 2020). The COVID-19 pandemic caused the prison population to plunge further—15% between 2019 and 2020 (Carson, 2021; see also Vose et al., 2020), with little evidence that this led to an uptick in crime or inspired any public or policy backlash (American Civil Liberties Union, 2020). In fact, between 2000 and 2022, 21 states fully or partially shuttered at least one correctional facility, reducing the U.S. correctional capacity by 81,444 prison beds (Porter & Lyons, 2022). Medically related release undoubtedly will be scaled back as the pandemic recedes, but the very fact that thousands of U.S. prisoners were decarcerated shows the openness of elected and correctional officials to this policy (see Fetting, 2022). Although speculative, if the pandemic had occurred at the height of the mass incarceration—get tough movement, it is not clear that releasing inmates would have been seen as a politically viable option. It is today; public support exists for downsizing prison populations (Sundt et al., 2015; Thielo et al., 2016).

Third, perhaps most salient, the public appears to embrace the possibility of a “Shawshank redemption” effect—that offenders can change for the better because of aging, as they mature beyond the stage of emerging adulthood. Survey research reveals that a high proportion of Americans believe that offenders, including Black offenders, are capable of being redeemed (Burton, Cullen, Burton, et al., 2020; Butler, 2020; Hughes et al., 2021). They have an “incrementalist” rather than an “entity” worldview, seeing human capacity not as fixed but as capable of growth (Chiu et al., 1997). Finally, for justice-involved people who have remained crime-free for a lengthy period and have completed treatment programs showing their reform, the public tends to support “wiping the slate clean” by expunging their criminal records. They also favor the creation of “redemption ceremonies” that signal a person’s rehabilitation and restore the rights of citizenship (Burton, Cullen, Pickett, et al., 2020; Butler et al., 2020; see also Bushway & Apel, 2012).

The challenge with second look sentencing, however, is that it pertains to offenders who have harmed others seriously, including taking a life. The dilemma is that more than half of all state prisoners (55%) are serving time for a violent crime (and more have a violent conviction in their past), so reducing their incarceration is necessary to achieve meaningful prison reform (Clear, 2021). Downsizing cannot be achieved by releasing only the so-called “non, non, nons”—that is, people with nonviolent, nonserious, nonsexual convictions (Gottschalk, 2015, p. 165). But here is the rub. As Cullen et al. (2000, p. 59) caution, “violent crime is the great dividing line between punitiveness and nonpunitiveness.” Regardless of possible benefits, the public will need to be persuaded that releasing such offenders is reasonable given their proven willingness to inflict personal injury. Two components of second look sentencing provide just such a rationale, thus increasing its policy feasibility.

First, the reform is limited to those whose crimes were committed while young (under the age of 25 years), at a time when they were immature and, as neuroscience documents, their brains were still in development. Legal cases reflect this view. In a series of decisions starting with *Roper v. Simmons* (2005), the U.S. Supreme Court precluded sentencing those under the age of 18 years to the death penalty or to mandatory life without parole. They noted that “children are constitutionally different from adults in their levels of culpability,” stating that youth is marked by potentially mitigating factors such as “transient rashness, proclivity for risk, and inability to assess consequences” (quoted in Rovner, 2021, pp. 1, 3). Thus, 15 years or more later, it becomes plausible that young anti-social/deviant offenders may have grown into prosocial adult men and women. In this regard, research is clear in showing that the American public strongly favors juvenile rehabilitation—so

much so that Cullen et al. (2007, p. 117) have referred to “child saving” as a “habit of the heart” in the United States (see also Cullen et al., 2000; Pickett et al., 2014; Piquero et al., 2010).

Second, release from prison is not conveyed automatically but must be merited—what Maruna (2001, p. 165) calls “earned redemption.” A “second look” is just that—a “look” and not a guarantee of the requested outcome. What takes place is not so much an assessment of risk but of change. The petitioner must present evidence that they are a good person whose life now involves good acts. They must show that if released, they will benefit society—often contributing to the community they came from and to youths who might end up as they once did. To use Maruna’s (2001, pp. 164–165) term, a process of “rebiographing” must occur in which the identity of a violent offender is replaced with the identity of a “repentant” who abhors the heinous act they once committed and wishes to “make good.”

In this context, the analysis examines public endorsement of second look sentencing, generally, and the specific conditions that might affect support for granting early release. Prior literature notes that global support for policies and specific support in particular situations often differ dramatically (Pickett, 2019). The most notable example comes from Applegate et al. (1996) where 88% global support for three-strike laws declined to 17% for specific cases. As such, we examine both. Is there a “Shawshank redemption” effect? If so, then possibility for this reform to spread to other jurisdictions is enhanced.

### 3 | METHODS

The data for this study come from two national-level, experimental surveys designed by the research team. The main survey was placed in the field in September 2021 using Amazon Mechanical Turk (MTurk). MTurk allows eligible “workers” to select and complete various tasks for a small financial incentive—in this case, \$2.06 for completing an online survey.<sup>3</sup> Many advantages come from online opt-in surveys as compared with other data collection modes (e.g., paper or phone), such as reducing inattentiveness, social desirability effects, satisficing, interviewer effects, and speeding (Anson, 2018; Chang & Krosnick, 2009; Weinberg et al., 2014). The surveys result in more honest and accurate self-reports. Eligible respondents for our study were MTurk workers 18 years or older who lived in the United States, had completed more than 500 previous human intelligence tasks, and had 95% or higher approval ratings on those completed tasks (Peer et al., 2014).

Although MTurk samples differ from the general population (Thompson & Pickett, 2020), extensive research shows that they normally yield externally valid experimental findings (Coppock, 2019; Mullinix et al., 2015; Snowberg & Yariv, 2021; Weinberg et al., 2014). In experiments, what undermines generalizability is substantial effect heterogeneity across the sampling variables (i.e., the factors affecting online selection). But this is uncommon for MTurk (Coppock et al., 2018). In other words, because treatment effects are normally similar in size and direction across the relevant population subgroups, their over- or under-representation in MTurk samples normally has little effect on estimates. For this reason, we believe MTurk is appropriate for our study.

Our MTurk survey was completed by 1,011 respondents, which was reduced to an analytic sample of 1,010 respondents based on listwise deletion for missing values (only one respondent). The sample, compared with the 2020 American Community Survey estimates (in parentheses), is 73.5% White (62.7%), 34.8% female (50.8%), and 71.3% married (48.4%); 62.7% have a bachelor’s degree or higher (30.1%); the median income is between \$60,000 and \$99,999 (\$84,394); and



the average age is 38.3 years (46.92 years). Compared with September 2020 Gallup estimates (in parentheses), 30.7% (29%) of the sample identify as Republicans.

In addition to the MTurk survey, we embedded some of the same questions in a YouGov survey conducted in June 2022. This allows us to explore the generalizability of our results across samples and time. Unlike MTurk, YouGov samples are matched and weighted to approximate the adult U.S. population on age, gender, race, education, region, and voting behavior. There is tremendous evidence that YouGov samples tend to provide generalizable findings (Ansolabehere & Schaffner, 2014; Graham et al., 2021; Simmons & Bobo, 2015). For example, YouGov surveys outperform most probability samples in predicting elections (89% accuracy vs. 69% for Gallup and 75% for IPSOS). Our YouGov survey was completed by 1,058 respondents (1,032 after listwise deletion). Because of space constraints, we were not able to include all of the variables used in the MTurk survey in the YouGov survey, and thus the YouGov data are not included in the full multivariate analyses. What we focused on in the YouGov survey was trying to replicate the prevalence estimates from the MTurk survey—the weakest type of MTurk inference. We also attempted to replicate one set of experimental results.

### 3.1 | Experimental design and dependent variables

The dependent variables come from two experimental questions. Past research has shown that there is an important distinction between global policy attitudes—general views about a policy in the abstract—and specific policy attitudes—views about applying the policy in a particular case or situation (Pickett, 2019). Thus, in the first experiment, which was conducted in both the MTurk and YouGov surveys, the goal was to assess respondents' global support for the policy of second look sentencing, depending on applicant age. As noted, the Washington, DC law applied initially to those who committed their crime when under the age of 18 years but was subsequently extended to those whose lawbreaking occurred when under the age of 25 years. Respondents were assigned randomly to one of these experimental conditions and then asked how much they supported the policy (1 = strongly oppose, 5 = strongly support). For the multivariate analysis, this outcome was rescaled (0–100), so that the coefficients could be interpreted as percentage point changes. The full, randomly varied question stem was as follows:

SECOND LOOK SENTENCING is a policy under consideration in many U.S. states. It allows courts to take a “second look” at long sentences (e.g., 25 years to life) given to people for committing serious crimes when they were young. After serving at least 15 years in prison, inmates who were [*Manipulation: UNDER 18-YEARS-OLD or UNDER 25-YEARS-OLD*] at the time of their crime can ask a judge to take a “second look” at their case and at their behavior since they were imprisoned to see if they can be RELEASED EARLY.<sup>4</sup>

In the MTurk sample, we also included a second experiment. Informed by the factors included in the DC statutes, the purpose of this experiment was to assess specific support for second look sentencing, conditional on characteristics of the particular case, which were randomized. In this factorial experiment, respondents were presented with three profiles of petitioners—one at a time in tabular form (Auspurg & Hinz, 2015). Table 1 provides the introductory text and shows the tabular case presentation. Each presented case contained nine dimensions (a  $2^8 4^1$  design), covering the characteristics of the petitioner, offense, and relevant statements made by interested

TABLE 1 Second experiment: Tabular vignette

Introductory text	
Over the next few pages, we describe hypothetical inmates who have applied for SECOND LOOK SENTENCING—a policy where judges reconsider long sentences given to people for committing crimes when they were young. All applicants are APPLYING FOR EARLY RELEASE. They are still in prison and have served at least 15 years of their original sentence. Please read the descriptions of the applicants carefully. Imagine that YOU ARE THE JUDGE and indicate the decision that you would make in each case.	
Tabular presentation of case	
Case details	
Age at crime:	[Manipulation A]
Current age:	[Manipulation B]
Sex:	[Manipulation C]
Race:	[Manipulation D]
Crime:	[Manipulation E]
Family background:	[Manipulation F]
In-prison programs:	[Manipulation G]
Statement from prison warden:	[Manipulation H]
Statement from victim or victim's family:	[Manipulation I]

Note: Respondents each received three cases, with each case presented in a separate table.

parties (warden, victim/victim's family). Although there are nine dimensions, this is a main effects design—we do not analyze interactions—and thus it is adequately powered; the nine dimensions are orthogonal and thus for each dimension the other eight dimensions are simply randomized covariates (Bansak et al., 2021).<sup>5</sup>

Table 2 shows the text of the levels for each dimension. In the experiment, the levels were randomized for each respondent for each tabularly-presented case. The respondents reviewed the presented case and then decided what should happen to the petitioner, using the following ordinal response options: “Release from prison now,” “Reduce sentence to 1–2 more years in prison,” “Deny application, but suggest reapplying in 3 years,” or “Deny application permanently.” Similar to past experimental studies (Metcalf & Pickett, 2022; Peyton et al., 2019), we rescaled the responses to range from 0 to 100, so that the coefficients could be interpreted as percentage point changes.

### 3.2 | Independent variables

Although our study is experimental, in the multivariate analysis with the MTurk sample, we also consider other characteristics of respondents that may be theoretically relevant to their views about second look sentencing. Including these covariates can not only improve the precision of the estimated experimental effects, but it can also shed light on the factors that are associated with support for this policy.

Growing research shows that *moral foundations* shape criminal justice attitudes (Silver & Silver, 2017). Jonathan Haidt's (2012) Moral Foundations Theory (MFT) posits that, because of evolutionary processes and the nature of homo sapiens' ancestral environments, modern humans are born with a palate of intuitive moral sentiments that are then weakened or strengthened through early-

**TABLE 2** Second experiment: Factorial dimensions, levels, and text phrases

Dimension	Levels and text
Age at crime	1. 16 years old 2. 22 years old
Current age	1. 35 years old 2. 50 years old
Sex	1. Female 2. Male
Race	1. Black 2. White
Crime	1. First degree murder, committed during a robbery 2. Attempted murder, committed during an argument 3. Forcible rape, committed during a household burglary 4. Manslaughter, committed during an argument
Family background	1. Normal childhood. NO abuse. 2. Suffered childhood abuse
In-prison programs	1. No rehabilitation program completed 2. Completed rehabilitation program
Statement from prison warden	1. Opposes application, cites bad behavior 2. Supports application, cites good behavior
Statement from victim or victim's family	1. Opposes application 2. Supports application

*Note:* The levels of each dimension were randomized in each table for each respondent.

life socialization and later-life experiences and interactions. This innate palate of moral intuitions breaks down into several related domains (harm/care, fairness/reciprocity, authority/respect, ingroup/loyalty, and purity/sanctity) that group into two major categories: individualizing versus binding foundations. Although other theories of morality exist (Shackelford & Hansen, 2016), there is no other theoretical perspective that has amassed as much empirical support as MFT for explaining attitudes toward crime, criminal sanctioning, and law enforcement (Burton et al., 2021; Nix et al., 2021; Silver, 2017; Silver et al., 2022).

Accordingly, we include two measures of MFT. They are based on agreement (1 = strongly disagree, 5 = strongly agree) with 20 items adapted from Graham et al. (2009) that tap into five domains (four items each): authority/respect, purity/sanctity, ingroup/loyalty, fairness/reciprocity, and harm/care. Consistent with prior research (Malka et al., 2016; Silver & Silver, 2017; Smith et al., 2014), responses to items capturing authority/respect (e.g., Respect for authority is something all children need to learn), purity/sanctity (e.g., Some acts are wrong simply because they are disgusting), and ingroup/loyalty (e.g., Loyalty to one's group is more important than one's individual concerns) were averaged to produce an overall binding foundations index ( $\alpha = 0.891$ ; factor loadings between 0.588 and 0.766). Likewise, responses to items capturing fairness/reciprocity (e.g., People should always treat others fairly and equally) and harm/care (e.g., Compassion for those who are suffering is the most crucial virtue) were averaged to produce an overall individualizing foundations index ( $\alpha = 0.801$ ; factor loadings between 0.447 and 0.736).

*Racial resentment* has consistently been a robust predictor of almost every social and criminal justice policy opinion and a strong predictor of punitiveness generally (Cullen et al., 2021). We

**TABLE 3** Descriptive statistics for MTurk sample ( $N = 1,010$ )

	Mean (SD)/%	Range
<i>Theoretical controls</i>		
Binding foundation	3.50 (.77)	1–5
Individualizing foundation	3.91 (.65)	1–5
Racial resentment	2.73 (.79)	1–5
<i>Sociodemographic controls</i>		
Age	38.32 (10.83)	21–85
Female	34.80	0–1
White	73.50	0–1
Married	71.30	0–1
Education	4.95 (1.05)	1–7
Income	4.30 (1.30)	1–7
Republican	30.70	0–1
Conservatism	2.92 (1.33)	1–5
Religious	82.10	0–1
South	43.30	0–1

measured it with the five-item scale used by Pickett and Chiricos (2012) that includes the core items based on Kinder and Sanders's (1996) classic measure (e.g., It is really a matter of some people not trying hard enough; if Blacks would only try harder, they could be just as well off as Whites). The items were rated with a Likert scale ranging from 1 = strongly disagree to 5 = strongly agree. Responses were recoded and averaged to produce a scale in which higher values indicated more racial resentment ( $\alpha = 0.677$ ; factor loadings between 0.331 and 0.833).

The respondents also provided several sociodemographic characteristics. These included sex (0 = male; 1 = *female*), age (in years), race (0 = non-White; 1 = *White*), marital status (0 = *else*, 1 = *married*). In addition, respondent's annual household *income* was captured through a seven-point scale ranging from "0–\$9,999," to "\$100,000+." Their *educational* attainment was captured using seven categories ranging from "less than high school degree" to "Doctoral degree." Respondents' political party was captured using six response categories but was dummy coded to reflect *Republican* viewpoints (0 = *else*, 1 = Republican). The political viewpoints of the respondents were captured on a five-point scale from (1) very liberal to (5) very *conservative*. The respondents also self-reported their religion. Those identifying a religious affiliation were coded as 1 = *religious*, whereas those not doing so (i.e., atheist, agnostic, nothing in particular, something else) were coded as 0. Finally, respondents living in the *South* (as identified by U.S. Census region) were identified by their self-reported ZIP code and dummy coded to reflect this region (0 = non-South, 1 = *South*). Table 3 provides the descriptive statistics for all variables included in the analysis.

### 3.3 | Analytic strategy

Our main analyses use the MTurk data; the YouGov data are used to try to replicate the portion of those findings where identical measures are available. The main analyses unfold in two phases. First, we estimate the experimental effects in baseline models without covariates, after which we estimate full models that include the covariates. All of the models are estimated

**TABLE 4** First experiment: Global support for second look sentencing by age cutoff

Minimal petitioner age	N	% Strongly support	% Support	% Neither support nor oppose	% Oppose	% Strongly oppose
MTurk sample						
Under 18 years old	489	29.4	47.0	14.1	7.0	2.5
Under 25 years old	521	26.1	49.3	13.4	8.8	2.3
Overall	1010	27.7	48.2	13.8	7.9	2.4
Chi-square = 2.521, df = 4, $p = 0.641$						
YouGov sample						
Under 18 years old	511	19.1	36.8	27.5	8.6	8.0
Under 25 years old	521	19.9	31.0	33.2	9.1	6.8
Overall	1032	19.5	33.9	30.4	8.8	7.4
Chi-square = 6.036, df = 4, $p = 0.317$						

using linear regression, which is appropriate in experiments even without continuous outcomes (Gomila, 2021; Huang, 2022). In the second experiment, the data are hierarchal, because each respondent rated three tabular vignettes, so that vignette ratings ( $n = 3,030$ ) are clustered within respondents ( $n = 1,010$ ). Accordingly, the analysis for this experiment is at the vignette level with standard errors clustered at the respondent level to account for autocorrelation (Auspurg & Hinz, 2015). None of the variance inflation factors exceed the standard cutoff of 4.0, indicating that we do not need to be concerned about multicollinearity.

## 4 | RESULTS

### 4.1 | The first experiment

In terms of policy, the initial age-at-offense cutoff for second look sentencing was “under 18,” but it was later increased to “under 25.” Our first experiment tested the causal effect of the age cutoff on public support for the policy. It sought to answer the question: Is global support for second look sentencing contingent on using a lower age cutoff? The experiment was conducted in the MTurk survey and then repeated a year later in the YouGov survey.

As shown in Table 4, global support for second look sentencing did not vary significantly by age cutoff when the experiment was included in the MTurk survey ( $X^2 = 2.521, p = 0.641$ ). This finding is replicated in the later YouGov survey ( $X^2 = 6.036, p = 0.317$ ). In other words, the respondents in both surveys at both time periods were similarly supportive of second look sentencing regardless of whether it extended exclusively to petitioners under the age of 18 years at the time of their offense—that is, who were in the traditional “juvenile” period of life—or to those who were under the age of 25 years when they offended—a longer period that includes “emerging adulthood.”

### 4.2 | Second look sentencing: Support and opposition

Beyond the (null) effects of the age cutoff, another question that the data from our first experiment shed light on is: Do respondents support or oppose second look sentencing in general? In the MTurk survey, respondents strongly endorsed the policy. As Table 5 shows, a supermajority (more than 75%) of respondents supported or strongly supported second look sentencing. By contrast,

TABLE 5 Global support and opposition to second look sentencing, by sample

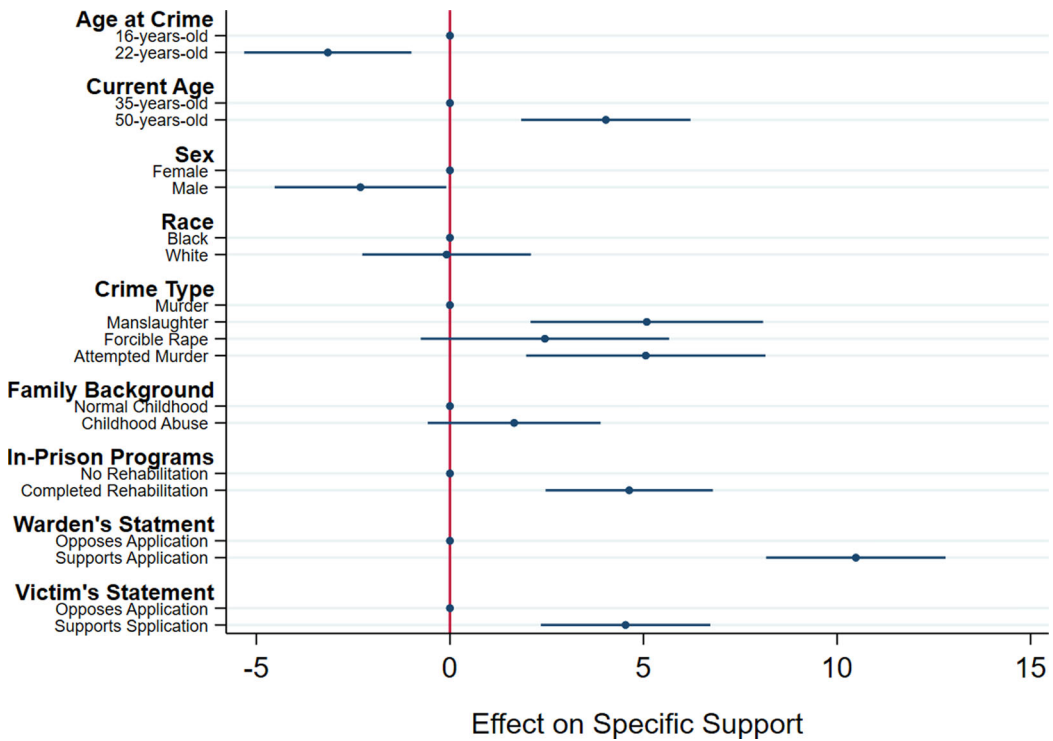
	MTurk (N = 1,010)		YouGov (N = 1,032)	
	Oppose (%)	Support (%)	Oppose (%)	Support (%)
Overall	10.3	75.9	16.2	53.4
Subgroups				
Race				
Whites	10.1	75.1	18.2	52.7
Non-Whites	10.8	78.4	12.6	54.7
Sex				
Males	10.5	75.6	18.1	54.8
Females	10.0	76.6	14.4	52.0
Party				
Non-Republican	9.0	76.4	11.8	58.3
Republican	13.2	74.8	29.6	38.5
Education				
Low education	12.3	74.0	17.3	46.0
High education	4.9	81.3	14.8	63.6
Income				
Low income	9.6	76.7	15.3	52.3
High income	11.4	74.9	17.8	57.5
Region				
Non-South	10.3	75.4	15.7	54.4
South	10.3	76.7	17.1	51.7

only 10.3% of respondents opposed or strongly opposed second look sentencing. Furthermore, as Table 5 also shows, there is clear support in the MTurk sample for second look sentencing across all major subgroups of respondents, even those that are traditionally the most punitive (e.g., Whites, Republicans, southerners).

However, generalizing such univariate estimates (e.g., percent supporting) from MTurk samples to the U.S. population is risky, because crowdsourced samples tend to over-represent nonpunitive Americans and under-represent punitive ones (Thompson & Pickett, 2020). For this reason, we attempt to replicate the prevalence estimates from the MTurk survey in the later YouGov survey. The key takeaways are the same in the YouGov survey, although the extent of support for second look sentencing is lower, albeit still at a majority level. That the extent of support was lower in the YouGov survey could be due to the less representative nature of the MTurk sample or to the YouGov survey being conducted in a different context a year later. Regardless, three sets of findings are salient.

First, most of the YouGov respondents (53.4%) endorsed second look sentencing. Second, and equally important, opposition to the policy was, as with MTurk respondents, very low—only 16.2%. Third, as with the MTurk sample, the majority support and minority opposition emerged in most population subgroups, the one exception being Republicans. Even in that political group, more Republicans supported the policy (38.5%) than opposed it (29.6%). The main difference in the two surveys was the size of group answering “neither support nor oppose” (NSNO): 13.8% for MTurk respondents and 30.4% for YouGov respondents (see Table 4). Taken together, these two





**FIGURE 2** Experiment 2: Effect of petitioner and case characteristics on specific support [Color figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.wiley.com)]

surveys suggest that on a global level, most Americans are supportive of second look sentencing or, in the least, do not oppose it.

### 4.3 | The second experiment

Given that the experimental findings for the first experiment were the same in both samples, and the broader evidence that experimental findings in MTurk samples are normally externally valid (Mullinix et al., 2015), we have confidence in preceding to the analysis of the second experiment, which was conducted only in the MTurk sample. It explored specific support for second look sentencing and addressed the question: In what circumstances are respondents most supportive of granting early release? Figure 2 presents the marginal effects of each manipulation, most of which exerted significant effects. The largest effect, interestingly, was for warden support, where respondents were substantially more supportive of release if the warden approved of it ( $b = 10.484$ ,  $p < 0.001$ ). This effect was much larger than that of victim support, which was also significant and positive ( $b = 4.537$ ,  $p < 0.001$ ). The positive impact of victim support is consistent with past experiments on initial sentencing, which show that victims' preferences have a strong influence on punishment decisions—or in Paternoster and Deise's (2011) terms, they put “a heavy thumb on the scale.” In our experiment, rehabilitative programing was also important, with respondents being significantly more supportive of release for petitioners who completed a rehabilitation program ( $b = 4.631$ ,  $p < 0.001$ ).

In terms of petitioner characteristics, respondents were significantly less supportive of release for males ( $b = -2.312$ ,  $p = 0.041$ ) and for those who were older at the time of their offense ( $b = -3.155$ ,  $p = 0.004$ ). But they were significantly more supportive of release for older petitioners ( $b = 4.027$ ,  $p < 0.001$ ), indicating an understanding that recidivism risk declines with age. They were also significantly more supportive of release for petitioners who had been convicted of manslaughter ( $b = 5.085$ ,  $p = 0.001$ ) or attempted murder ( $b = 5.059$ ,  $p = 0.001$ ), rather than murder. Surprisingly, neither the petitioner's family circumstances in early life nor race affected respondents' support for release. In summary, the ideal petitioner in the view of respondents appears to be an older petitioner (age 50 years) who committed a nonmurder, non-sexual offense at a young age (16 years) and who has since completed a rehabilitation program and behaved well in prison, garnering support from the warden and from the victim (or victim's family).

One caveat needs to be added. As just noted, support for a positive second look decision varies by offense. However, regardless of the offense involved, only a low percentage of the respondents rejected second chances in favor of "deny application permanently." Across all vignettes, the selection of the permanent denial response was 8.9% for attempted murder and 10.1% for manslaughter. Notably, the figure for forcible rape was only 12.0% and for first degree murder 14.1%. For this latter category, the most serious offense, many respondents favored release from prison now (17.4%) or in a year or two (37.5%); another 31.0% favored having the petitioner reapply in 3 years. In short, the findings from the second experiment reaffirm the low global opposition (10%–16% oppose) to second look sentencing that we observed in the first experiment in both samples.

#### 4.4 | Multivariate analysis

The final portion of our analysis uses the MTurk sample to examine the associations between the covariates and each of the experimental outcomes, net of the manipulations. As seen in Table 6, in each experiment, the results remained substantively similar for the experimental manipulations. However, several of the added covariates are significantly associated with global and specific support. Most notably, racial resentment is significant and negatively correlated with both types of support, indicating that racially resentful respondents tend to be less supportive of second look sentencing, both in general and in specific cases. The only other control variable that is significantly associated with both outcomes is education: Better educated respondents tend to be more supportive of second look sentencing in general and in specific cases. By contrast, individualizing foundations are only significantly associated with global support ( $b = 8.631$ ,  $p < 0.001$ ), possibly because the case characteristics in the specific support model provide morally relevant information (e.g., offense type, victim preferences) that offsets the general concern with fairness and harm for the petitioner.

### 5 | DISCUSSION

#### 5.1 | Global support for second look sentencing

Evidence is mounting that declining public punitiveness in the United States is associated with the adoption of a more progressive approach to sanctioning, as reflected in the diminishing execution rate and shrinking prison population (Baumgartner, 2021; Baumgartner et al., 2021; Enns, 2016;

TABLE 6 Experiments 1 and 2: Full models

	Model 1: Global support vignette (N = 1,010)			Model 2: Specific support vignette (N = 3,030)		
	<i>b</i>	SE	$\beta$	<i>b</i>	SE	$\beta$
Experimental variables						
Age at crime: 25 years old	−1.043	1.443	−0.022	−	−	−
Age at crime: 22 years old	−	−	−	−3.113	1.095	−0.050**
Current age: 50 years old	−	−	−	4.192	1.097	0.067***
Sex: Male	−	−	−	−2.182	1.095	−0.035*
Race: White	−	−	−	0.030	1.097	0.000
Crime:						
Attempted murder	−	−	−	4.871	1.551	0.066**
Forcible rape	−	−	−	2.399	1.571	0.033
Manslaughter	−	−	−	4.602	1.535	0.065**
Family background: Childhood abuse	−	−	−	2.077	1.094	0.033
In-prison programs: Rehabilitation programs completed	−	−	−	4.810	1.093	0.077***
Statement from prison warden: Support	−	−	−	10.278	1.097	0.165***
Statement from victim: Support	−	−	−	4.616	1.095	0.074***
Theoretical controls						
Binding foundation	−2.184	1.363	−0.070	1.232	1.095	.031
Individualizing foundation	8.631	1.457	0.230***	0.988	1.145	0.020
Racial resentment	−5.839	1.109	−0.190***	−2.891	0.883	−0.073**
Sociodemographic controls						
Age	0.028	0.069	0.013	0.034	0.052	0.012
Female	−2.129	1.543	−0.042	−0.206	1.177	−0.003
White	−0.354	1.667	−0.006	0.209	1.263	0.003
Married	3.371	1.924	0.064	3.721	1.489	0.054*
Education	2.047	0.773	0.088**	1.868	0.594	0.063**
Income	−1.334	0.583	−0.071*	−0.218	0.457	−0.009
Republican	−1.691	1.688	−0.032	−0.809	1.276	−0.012
Conservatism	−0.291	0.595	−0.016	−1.969	0.452	−0.084***
Religious	0.447	2.328	0.007	0.405	1.835	0.005
South	0.109	1.465	0.002	−1.590	1.115	−0.025
Intercept	56.866	7.768	0.000	36.592	6.193	0.000
Adjusted <i>R</i> squared		0.111			0.070	

\**p* < 0.05, \*\**p* < 0.01, \*\*\**p* < 0.001.

Note: For model 2, clustered standard errors presented; crime reference group is first degree murder.

Pickett, 2019). Opportunities for reform lie ahead (Lee et al., 2022; Petersilia & Cullen, 2015). In this context, the results of the current study are important in two respects.

First, a few decades ago, a proposal to rebiography murderers and rapists as “redeemed” and worthy of “early release” from prison would have been unimaginable, if not laughable—a recommendation dismissed as politically naïve and skewered by right-wing commentators as recklessly

endangering public safety. Cold-blooded super-predators, the argument went, do not become kind-hearted youth workers (see, e.g., Bennett et al., 1996). Although enduring change in public opinion tends to unfold slowly, change nonetheless occurs. It is important, therefore, to document what has been called the “boundaries of political permission” (Thielo et al., 2016, p. 146). This line in the sand refers not so much to what the public demands as to what they will accept. If a boundary of permission is crossed, “confrontational politics” is a likely response (Moran, 2001, p. 416). At issue is whether a proposal for second look sentencing violates today’s political boundaries. Has the line in the sand shifted where releasing changed offenders who committed heinous acts early in life is now seen as acceptable? Do Americans believe in “the Shawshank redemption” effect?

A key finding of this study is that there is majority overall or “global” support for second look sentencing. In the first experiment, three-fourths of the MTurk sample favored this policy, with more than 25% answering “strongly support”; in the YouGov sample, more than half expressed support, about 20% strongly. Opposition to second look sentencing was very low in both samples (10.3% for MTurk respondents and 16.2% for YouGov respondents). Additionally, support was virtually equal regardless of the age cutoff (i.e., whether the policy applied only to petitioners under the age of 18 years or under 25 years of age at the time of their crime). These findings suggest that openness to this reform is not idiosyncratic to Washington, DC but is likely to exist across the United States. It is instructive that prior research has revealed public support for rehabilitation and correctional reform even in Red states (see Cohen, 2017; Thiello et al., 2016). Furthermore, as noted, research also shows that a high percentage of Americans believe that people with criminal convictions can change for the better. Redemption is seen as a possibility (Burton, Cullen, Burton, et al., 2020; Butler, 2020; Hughes et al., 2021). Endorsing second look sentencing is consistent with this belief.

Second, public support is potentially important when campaigning for a policy’s implementation. Those favoring second look sentencing as a national reform can cite not only the success of this initiative in Washington, DC but also the current study’s finding that a majority of the public supports second look sentencing and that opposition to the policy is low. Respondents across most socio-demographic groups, including geographical regions, embrace this reform, and even more Republicans support than oppose it. In this context, public opinion has the potential to be used as a resource by reform advocates to legitimize second look sentencing as an expression of democracy in action.

This rosy conclusion needs to be qualified in two ways. First, a partisan divide may develop between parties in the willingness to support second look sentencing. Among YouGov respondents, Republicans were the only subgroup whose opposition to the policy exceeded 20%, reaching nearly three in 10 respondents. Their level of support also was 20 percentage points lower than non-Republicans. This does not mean that Republicans, including elected officials in this party, are opposed to criminal justice reform on the state level (see Cohen, 2017) or the federal level (as the passage of the First Step Act during the Trump Administration shows). However, opposition to a reform such as second look sentencing among those on the Right might emerge if crime becomes a significant electoral issue with associated framing efforts. In this regard, Republicans’ worry about crime, which had been lower than Democrats during the Trump presidency, “has risen sharply since Joe Biden became president, including an eight-point increase this year”; it now stands at 61 versus 43% for Democrats (Brenan, 2022).

Second, as with other reforms that release prisoners “early”—before their maximum term expires—second look sentencing is vulnerable to the so-called “Willie Horton effect.” William Horton (he never used the name “Willie”) was a Massachusetts inmate serving a life sentence

for murder who was given a weekend furlough. Then-Governor Dukakis had previously vetoed legislation barring lifers from receiving furloughs on the grounds that such a policy would inhibit rehabilitation. Subsequently, Horton absconded while on a furlough and then traveled to Maryland where he kidnapped a couple, stabbing the man and raping the woman. In the 1988 presidential election, a political action committee supporting George H. W. Bush made a 30-second advertisement highlighting the incident to paint Dukakis as weak on crime. It used an image of Horton that played into racial stereotypes of Black men as victimizers. The success of this advertisement, dog-whistle politics, and critiques of Democrats as lenient not only advanced Bush's election but also provided a template for attacking opponents "responsible" for releasing dangerous predators from prison (Baker, 2018; Wikipedia, 2022).

Because second look sentencing releases offenders who committed serious offenses, its advocates and the policy in general could be vulnerable to attack if a returning prisoner given a second look committed a heinous crime (Serota, 2022). Every effort is made in Washington, DC to avoid this outcome, with the background of all applicants receiving detailed vetting. Petitioners "have their entire life put under a microscope," including a review by a forensic psychologist (Lennon, 2022). Based on his involvement in the process, Zeigler (2019) notes:

I represented two of the earliest men released, currently represent six others at various stages in the process, and have come to know many other men who have sought relief. In each of these cases, judges have spent countless hours reviewing briefings and evidence, including years of prison records, and hearing live testimony from witnesses and victims. Judges have consistently remarked that these decisions were not made easily; they understand the significance of these cases not only to victims and petitioners but also to their families, supporters and the community at large.

Thus, it is possible that a second look policy could withstand an occasional failure because the release process involves careful judicial review as well as supervision upon release. Every attempt is made to minimize risk to public safety, which was not the case with Willie Horton's furlough. Still, highly publicized violent crimes that seem preventable can inspire public outrage and calls for more punitive sanctions (Kulig & Cullen, 2017). It is a challenge that second look sentencing must confront, for as Zigler notes, "No system is going to be able to offer a 100 percent guarantee that no one will commit crimes" (quoted in Lennon, 2022).

## 5.2 | Specific support for second look sentencing

The second experiment and multivariate analysis are valuable in unpacking factors that might influence support for second look sentencing. These data illuminate more specific attitudes about this policy. Among the results already reported, four findings seem to merit discussion.

First, in the factorial vignette experiment, support was significantly higher for petitioners who were younger at the time of the crime and older at the time of their second look request. Petitioners who were 16 years old at the time of their crime may be seen as less culpable and more capable of change (see Cullen et al., 2007). Petitioners who are 50 years old when requesting a second look would have served longer sentences than those aged 35 years, and had more time to change. They would have paid a much steeper price for their crime and thus been more deserving of release. As noted, however, age did not lead the respondents to oppose second look sentencing in general; it just affected the level of support in specific cases.

Second, prior research has sometimes found that the race of the offender in experiments affects punitiveness and has almost always found that racial resentment is positively correlated with the latter (Cullen et al., 2021; Feiler & Sheley, 1999). The analysis here yields mixed evidence about the effect of racial concerns. Supporting prior literature, racial resentment was significantly associated with more punitive attitudes (less support for release); however, the race of the petitioner did not significantly affect attitudes. Measures of moral foundations also were not related to the specific support for release. Again, research shows that some types of punitiveness are higher among those embracing binding foundations and lower among those embracing individualizing foundations, but past studies also show that the relationship between moral foundations and punitiveness is complex, and changes with the type of offender and victim (Silver, 2017). Taken together, these findings suggest that Americans of diverse outlooks are willing to support the policy—or, in the least, not oppose it.

Third and perhaps most important, completing an in-prison rehabilitation program and, in particular, having a favorable statement from the warden attesting to the petitioner's good behavior increased support for release. These findings suggest that the public will take into account “signals” that offenders are reformed and ready to return safely to society (Bushway & Apel, 2012). Denver (2020, p. 194) has called these “positive credentials” that provide “evidence of rehabilitation.” As noted, completion of programs and institutional record are two factors that judges consider under the DC Second Look Act. Public support for this reform in other jurisdictions is likely to increase by incorporating these criteria into the law.

By contrast, if releases occurred that departed from public preferences, then any second chance act would be vulnerable to losing legitimacy. In particular, the findings suggest that public support would attenuate if a rigorous vetting process was not employed and if evidence was not marshalled to show that the petitioner was a “changed person.” Again, this would include endorsement of release by objective observers (especially wardens and prison counselors) and evidence of rehabilitation. Further research might also explore how post-prison factors affect public support for the policy of second look sentences. Experiments could include (or omit) accounts of released individuals “making good” (Maruna, 2001) by, for example, helping at risk youths via volunteer activity or taking social service jobs. “Many of the beneficiaries of these sentencing reductions,” observes Serota (2020), “have become active in the community, working as violence interrupters, mentors, and advocates of nonviolence.” Conversely, research could examine how disclosures of a released person committing various types of crime—from minor offenses to murder—might affect the durability of public support for second chance sentencing.

Fourth, one further issue likely to arise when second look sentencing is proposed elsewhere in the United States is the role of victims. In the current study, the variable of a statement from the victim supporting release exerted sizable and significant effects. Paternoster and Deise (2011) found that victim impact evidence had a large effect on both emotions and decision-making during initial sentencing. Our evidence shows that victims’ “heavy thumb on the scale” extends to second look sentencing as well (Paternoster & Deise, 2011, p. 129). A key issue will be how much weight the preference of victims will (and should) have.

In the DC law, the court is instructed to “consider” a statement from the offender’s victim or, if deceased, from the victim’s family (Council of the District of Columbia, 2021). Councilmember Mary Cheh introduced an amendment that victim statements should not just be “considered” by judges but given “substantial weight.” This attempt to privilege the victim with a stronger voice in deciding who is released at a second look hearing was rejected by the D.C. Council. Their goal was to direct attention to the offender and their possible transformation:



They also pushed back against Cheh's concerns, pointing out the focus of the bill is on rehabilitation and that many factors are considered by the judge when resentencing. "We're not traveling back in time to relitigate the guilt of an individual for the offense they committed," [Councilmember Charles] Allen said, "They committed it. They're guilty. That part's not in dispute. What the Second Look Act is trying to look at is the sentencing and whether an individual is a risk to public safety or not." ... "The issue at hand is: has that person paid their debt to society and is that person prepared to come home to be an asset to the community?" [Councilmember Trayon] White said. (Grablick, 2020)

Importantly, the D.C. Council seeks to revitalize the progressives' model of individualized justice, focusing not on the nature of the crime committed years ago but on each person that comes before the court (see Rothman, 1980). This orientation reverses a core dynamic inherent in the get-tough movement that sped forward in the last quarter of the 20th century. As Garland (2001) notes, the rejection of "penal-welfarism" was replaced with an "othering" of offenders, where they were reduced to undifferentiated members of crime categories (see also Simon, 2014). By contrast, victims were "brought into full human focus and given an individual voice" (Garland, 2001, p. 180). Garland (2001, p. 180) continues:

The interests of the victim and offender are assumed to be diametrically opposed: the rights of one competing with those of the other in the form of a zero sum game. Expressions of concern for the offender and his needs signal a disregard for the victim and her suffering. The standard response to those who campaign for prisoners' rights or better treatment of offenders, is that they should direct their compassion and concern towards the innocent victim, not the guilty offender.

As seen in Councilmember Cheh's proposed amendment and in the U.S. Attorney's reaction to the DC Act, opposition to second look sentencing almost certainly will use the substantial harm done to victims to derail any claim for early release.<sup>6</sup> The genius of this reform, however, is that it does not ask for special treatment at the system's *front end* (e.g., retaining an offender in juvenile court, giving an age discount in sentencing) but only at its *back end*. No look is even taken until 15 years in prison have been served. Even then, an offender's release is not guaranteed but must be earned and subjected to careful judicial scrutiny using criteria specified in the Act. At the core of the policy is belief in the "Shawshank redemption" effect—that "Red" and other inmates are not the angry or impulsive young people who committed heinous crimes in, quite literally, a different lifetime. They are no longer the "other"—the super-predator—but adults who now are a lot like "us." Victims matter, but if we take a second look at the person standing before us, their continued incarceration is difficult to justify.

### 5.3 | Conclusion

In closing, the Second Look Act should be placed in a broader policy context of the rejection of mass imprisonment as the lynchpin of American crime-control policy (Clear, 2021; Petersilia & Cullen, 2015). The nation's daily count of incarcerated individuals hovers around 2 million, so any notion that the United States will soon surrender its status as the world's leader in imprisonment is fanciful. Still, as noted, prison populations have declined every year since 2009, with large

drops during the pandemic. More importantly, political get-tough rhetoric has all but vanished—except perhaps when a spike in crime reminds right-wing politicians of the days when appeals to punitiveness worked, evoking praise. Few state-level politicians campaign on a platform of prison construction, especially when a new facility can cost upwards of \$600 million (Burkhalter, 2022). Recall that even former President Trump passed the First Step Act in 2018 (Cohen, 2019).

Beyond downsizing prison populations, the Second Look Act is part of a more specific reform effort: reducing the length of prison sentences. The Sentencing Project reports that second look sentencing is spreading across the nation. According to Ghandnoosh (2021, p. 4):

Legislators in 25 states, including Minnesota, Vermont, West Virginia, and Florida, have recently introduced second look bills. A federal bill allowing resentencing for youth crimes has bipartisan support. And, over 60 elected prosecutors and law enforcement leaders have called for second look legislation, with several prosecutors' offices having launched sentence review units.

Notably, this reform has the support of the legal community. Templates for implementing second look sentencing have been developed for inclusion in the revised Model Penal Code and by the National Association of Criminal Defense Lawyers (Murray et al., 2021; Weiss, 2021). In August 2022, the American Bar Association passed Resolution 502 urging “judicial decision-makers to hear petitions for *de novo* ‘second look’ resentencing brought by any incarcerated person who has served at least ten continuous years of a custodial sentence.” A similar resolution was endorsed by the Council on Criminal Justice Task Force for Federal Priorities (2020).

Although it did not become law, Senator Cory Booker and Representative Karen Bass proposed the “Matthew Charles and William Underwood Second Look Act of 2019” (FAMM, 2019). Reforms with comparable aims are also being proposed.<sup>7</sup> An initiative (Assembly Bill 2942) was passed in California in 2018, giving local district attorneys the discretion to request a prisoner’s resentencing. Los Angeles District Attorney George Gascón created a sentencing review unit to examine all those who have served more than 15 years of their sentence (Ghandnoosh, 2021; see also Bazelon & Medina, 2021). A similar law was enacted in Illinois that allows for resentencing in cases recommended by state’s attorneys for judicial reconsideration (Illinois Prison Project, 2021). Prosecutors in other jurisdictions are facilitating rather than opposing early parole hearings for those convicted when an emerging adult (Ghandnoosh, 2021). Taken together, these developments suggest that a reform movement is beginning that will use a variety of measures to reconsider the necessity for sentences extending decades into the future.

One impetus for the current consideration of a range of early release policy options is the growing concern about lengthy prison terms in the United States. According to The Sentencing Project (2022), more than 770,000 incarcerated individuals face at least a 10-year sentence, with 260,000 prisoners already exceeding this stay behind bars. The racial disparity is disquieting. “In 2019,” observes The Sentencing Project (2022), “Black Americans represented 14% of the total U.S. population, 33% of the total prison population, and 46% of the prison population who had already served at least 10 years” (p. 7). The Sentencing Project’s (2022) main policy recommendation is for officials to take “a second look at sentencing within 10 years of imprisonment” (p. 1).

Beyond utility, our study reveals that the U.S. public is likely ready for a corrections that is more aspirational and forward looking as opposed to punitive and perpetually seeking retribution for bad acts that cannot be changed. The very popularity of the movie *Shawshank Redemption* and the audience’s empathy for Morgan Freeman’s Red are not due simply to good theater. These

sentiments reveal something inherent in the American character—a desire for souls to be saved and lives to be redeemed. We are a nation of second chances and now, it seems, of second looks.

## CONFLICT OF INTEREST

The authors confirm that they have no conflict of interest to declare.

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## ENDNOTES

<sup>1</sup> Four updates are in order following the passage of the 2019 statute. First, according to James Zeigler (2022), Executive Director of The Second Look Project, the number of releasees is “approximately 100 at this point.” Second, according to Lennon (2022), prosecutors report that four people released under second look sentencing have now been arrested for a new crime, most for a nonserious offense (e.g., unauthorized use of a motor vehicle) but one for murder. To our knowledge, this case is still pending (Duggan et al., 2021; Lu, 2021). Third, Zeigler (2022) reports that the case has not evoked “any discernible backlash”—likely because the victim had a criminal past, including an altercation with the perpetrator while incarcerated together in 2006–2007 (Lu, 2021). Fourth, The Second Look Project, a DC advocacy group, now compiles success stories of those receiving release. For just two examples, see Bailey (2020) and Williams (2021).

<sup>2</sup> The use of child abuse as a criterion for release merits consideration. Although these experiences may reduce the culpability of offending at a younger age, they may remain a risk factor for recidivating later in life, especially if not addressed through effective treatment (Basto-Pereira & Farrington, 2022).

<sup>3</sup> The incentive of \$2.06 was arrived at based on the cost per minute (13.73 cents per minute) of completing the overall survey, which was estimated by Qualtrics to take 15 min to complete. This rate equates to ~\$7.80 per hour, which is slightly above the federal minimum wage of \$7.25. The overall budget of this survey was estimated using: <https://morninj.github.io/mechanical-turk-cost-calculator/>

<sup>4</sup> In this experimental question, the age ranges explicitly specified should outweigh any potential priming (e.g., of thoughts of juveniles) caused by the phrasing “when they were young.” Additionally, we know that, at least for harsh policies, the public does make age distinctions among juvenile offenders (Applegate & Davis, 2006; Miller & Applegate, 2015).

<sup>5</sup> As Bansak et al. (2021, p. 32) explain, in a factorial design, when estimating a particular dimension’s effect, the other dimensions “simply add to the infinite list of pretreatment covariates that might also vary across respondents or tasks, which are also implicitly averaged over when calculating the observed difference in means.” Thus, “a valid inference can be made” for each dimension by treating it “as if it was the sole categorical treatment in the experiment, although statistical efficiency might be improved by explicitly incorporating the other [dimensions] in the analysis.” In turn, the power calculations for the main effects are by dimension (i.e., sample size per levels).

<sup>6</sup> As noted, caution must be exercised in generalizing experiences in support or opposition to second look sentencing from Washington, DC to other local and state jurisdictions. DC has a progressive Council, and the prosecution of major crimes (including murder) is conducted by The United States Attorney’s Office for the District of Columbia, whose policy positions can vary by the party of the current president. Furthermore, two-thirds of convicted felons in DC are housed in federal prisons, not the local jail (NBC 4 Washington, 2019). The public opinion data presented show a general openness to second look sentencing, which can be a first step to undertak-

ing a reform effort. However, the feasibility of implementing specific second look legislation will depend on local or state politics.

<sup>7</sup>The advocacy group FAMM (Families Against Mandatory Minimums) maintains an up-to-date inventory of the status of initiatives to reduce sentence lengths, including second look provisions. See their link to Second Chance Legislation in the States: [https://docs.google.com/spreadsheets/d/13a-FuNUNGaphzq-GsAd8E54veaZhU\\_nWkmh2gxy-iCs/edit#gid=0](https://docs.google.com/spreadsheets/d/13a-FuNUNGaphzq-GsAd8E54veaZhU_nWkmh2gxy-iCs/edit#gid=0)

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