

Factors Relevant to Sentencing: The Views of Judges and Jurors

Further Key Findings of the Victorian Jury Sentencing Study¹

This fact sheet summarises further key findings from the Victorian Jury Sentencing Study by Professor Kate Warner from the University of Tasmania, and colleagues. Following on from [Is Sentencing in Victoria Lenient?](#) this fact sheet focuses on the weight given to certain factors during sentencing.

Overall, both judges and jurors gave more weight to **aggravating** factors (factors that make the offence more serious, or the offender more blameworthy) than **mitigating** factors (factors that make the offence less serious, or the offender less blameworthy). Between judges and jurors, there was a bigger difference in the weight given to **mitigating** factors than to **aggravating** factors (although they were generally similar).

Judges' Views

Judges' views were collected on the weight they gave ('a lot', 'a little' or 'none') to 18 sentencing factors in 122 trials with 140 offenders. This involved a combination of self-reporting and a review of sentencing remarks by the researchers.

Jurors' Views

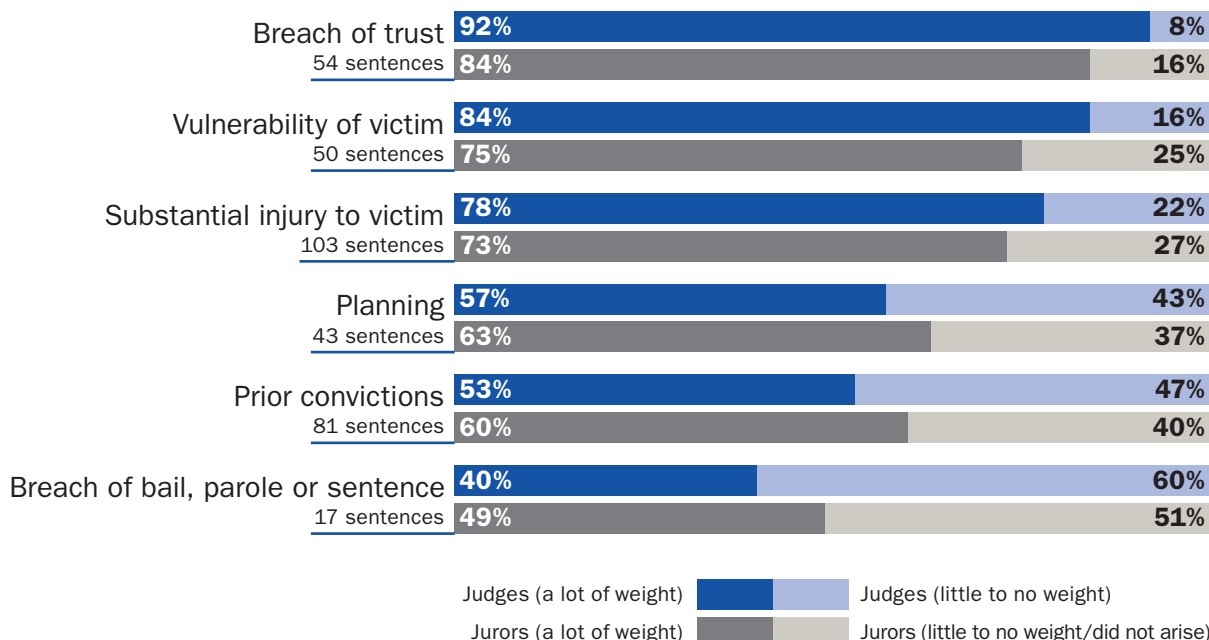
Jurors were sent a copy of the judge's sentencing remarks from their case and a booklet describing 'relevant sentencing factors'; 243 jurors responded. Using the same list of 18 sentencing factors, jurors were asked to indicate how much weight they would have placed on each one: 'a lot', 'a little', 'none' or 'did not arise'.

Aggravating Factors

The views of judges and jurors on the weight given to aggravating factors were **very similar**. Both judges and jurors gave the most weight to the same three aggravating factors: breach of trust, vulnerability of victim and substantial injury to victim.

Judges gave slightly **more weight** to the aggravating factors of breach of trust, vulnerability of victim and substantial injury to victim.

Jurors gave slightly **more weight** to the aggravating factors of planning, prior convictions and breaches of bail, parole or sentence.

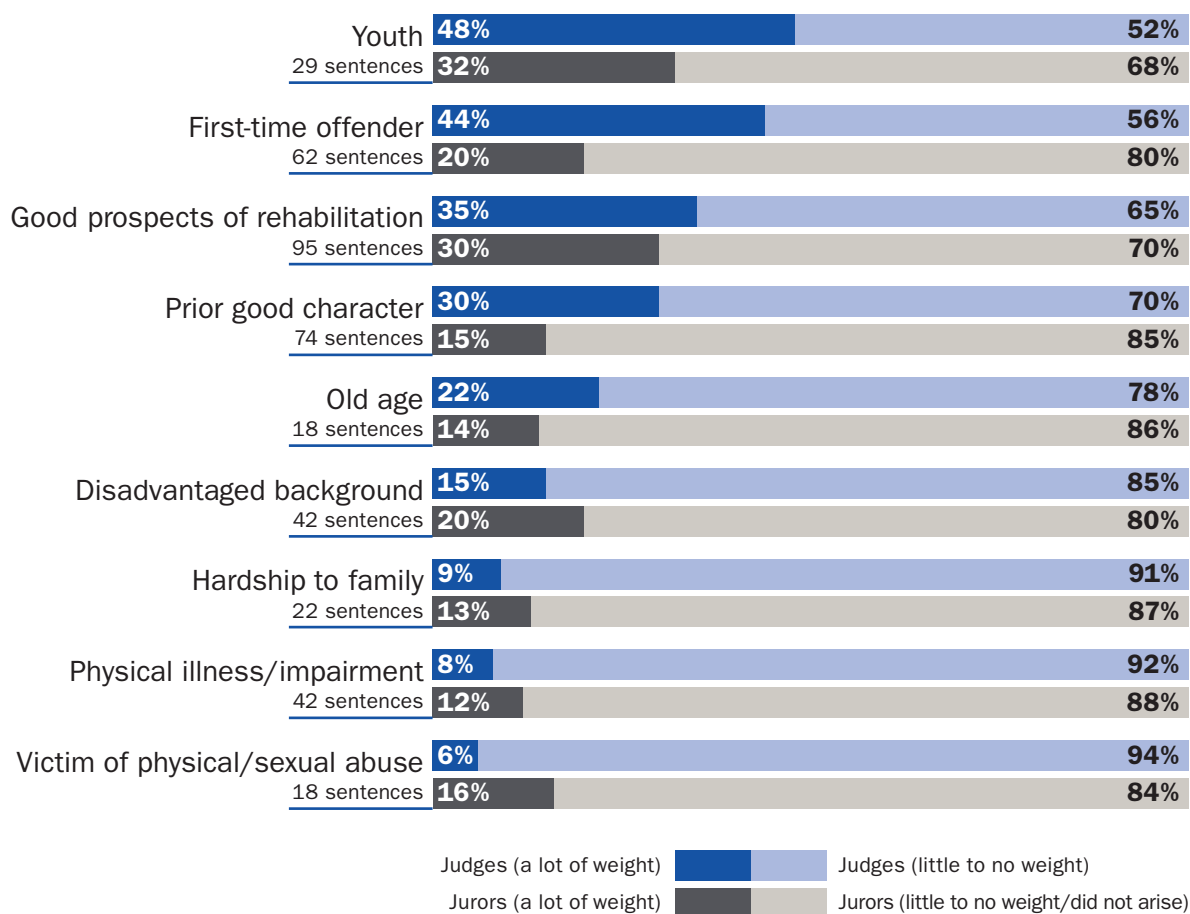


Mitigating Factors

Both judges and jurors gave the most weight to the same three **mitigating** factors:

- the offender’s youth
- being a first-time offender
- having good prospects of rehabilitation.

Judges were more than twice as likely as jurors to give a lot of weight to the offender being a first-time offender. Judges gave that factor a lot of weight in 44% of sentences, while jurors only gave that factor a lot of weight in 20% of sentences.



¹ Data in this fact sheet is drawn from Kate Warner, Julia Davis, Arie Freiberg, Caroline Spiranovic and Helen Cockburn, 'Aggravating and Mitigating Factors in Sentencing: Comparing the Views of Judges and Jurors' (2018) 92 *Australian Law Journal* 374.