

Judging remorse: can the courts tell if you're really sorry?

TRANSFORMING HOW COURTS UNDERSTAND REMORSE

Every day, judges make decisions about whether an offender is genuinely remorseful. Court decisions about remorse impact people's lives. In serious criminal cases, perceptions of remorse can significantly influence sentencing, parole and, in some jurisdictions, even whether an offender lives or dies.

Despite these high stakes, courts have long lacked an agreed definition of remorse or a consistent framework for assessing it.

Associate Professor Kate Rossmanith, an ARC Future Fellow at Macquarie University, set out to address this gap through the world's first ethnographic study of remorse in the justice system.

UNDERSTANDING HOW REMORSE IS JUDGED

Between 2010 and 2013, Associate Professor Rossmanith immersed herself in the NSW justice system, observing court proceedings, sentencing deliberations and parole hearings, and conducting more than 100 interviews with judges, lawyers, offenders, victims, forensic specialists and parole authorities.

Her research explored how remorse is recognised, expressed and interpreted within legal settings. It revealed that courts rely on complex judgements about people's behaviour and personal narratives.

The research made visible a problem that had previously been acknowledged but never systematically examined. By giving judges and legal practitioners a language to describe remorse assessment processes, the research has offered a refined understanding of how to think about and talk about such evaluations.

HELPING SHAPE JUDICIAL PRACTICE

The research has had direct and lasting influence on the justice system. Following the project, a judge invited Associate Professor Rossmanith to develop practical guidance for the judiciary. Working with a legal scholar and a forensic psychologist, she produced *Perspectives on How Judicial Officers Can Assess Remorse in Sentencing Proceedings* (2025) – the first resource of its kind anywhere in the world.

The guide has been distributed to judges in Australia, Canada and the United States, providing an evidence-based framework for assessing remorse more consistently and transparently.

Judicial response to the project has been overwhelmingly positive. One judge described the work as 'the first time that we, as a judiciary, have tackled this topic of remorse assessment', while others observed that it articulated aspects of judicial decision-making that had previously remained difficult to express.

BEYOND THE COURTROOM

By providing this rigorous framework for understanding remorse in legal decision-making, Associate Professor Rossmanith's research has transformed how courts think about one of the most consequential – and previously least understood – aspects of criminal justice, helping make sentencing fairer, more transparent and more evidence-based. Her work has informed public debate through national media, public lectures and legal education, while earning international recognition, including a Visiting Scholar posting at the University of Oxford.

Associate Professor Rossmanith's research has also shaped public understanding of grief, justice and emotion. Her award-nominated book *Small Wrongs: How We Really Say Sorry in Love, Life and Law* helped bring complex legal and ethical questions to a broader audience, while her short documentary *Unnatural Deaths* is being used to support bereaved families as they make difficult decisions about viewing crime scene images.

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