



Maryland Commission on Criminal Sentencing Policy

50 Maryland Avenue, Rockville Maryland 20850 - (301) 217-7205 - fax (301) 217-7732

Meeting Minutes

OCTOBER 3 & 4, 1996

GREAT OAK LODGE

MEMBERS ATTENDING: Judge John F. McAuliffe, Andrew L. Sonner, Judith R. Catterton, Roberta Roper, Walter E. Chase, Sr., Dr. Charles Wellford, LaMonte Cooke, Sen. Delores G. Kelley, Sen. Christopher McCabe, Del. Joseph F. Vallario, Jr., Del. Kenneth C. Montague, Jr., Judge Joseph H.H. Kaplan, Judge Alexander Wright, Stephen E. Harris

STAFF PRESENT: Sandra Shane-DuBow

GENERAL BUSINESS

The next meeting, October 17, will be in the Calvert Room at the Statehouse. The December 12 meeting will be at the Aspen House. It will be the first time the committee can begin discussing their charge. The commission will also be approving an interim report to turn into the legislature. It will be time to hear from the commission members about some of the following issues:

- whether to narrow existing guidelines
- an offender's right to appeal
- descriptive versus prescriptive
- truth in sentencing
- good-time credits
- compliance with federal guidelines for federal funds by requiring offenders to serve 85 percent of their sentence
- recommendations for parole - whether to keep it, modify it, or don't have it
- public outreach and involvement

Retreat Facilitator Nancie Zane

Meeting Goals

- 1) To explore issues and strategies on public engagement in regards to sentencing guidelines. What do you want to hear from the public and what do you want to have them learn?
- 2) Examine goals of a restorative justice model and explore policies and programs in relation to non-incarcerative options. Create a conceptual link between restorative justice and non-incarcerative options.
- 3) To discuss the current data available in regards to disparities in sentencing.

4) To listen to the experience of a state who has engaged in developing sentencing guidelines and discuss issues that might be relevant to Maryland. What has been successful and what has been problematic.

5) To begin talking about the purposes and goals that might underlie the commission's sentencing guideline practices.

Dr. Francis "Frank" Carney

Massachusetts Department of Corrections and Sentencing Commission

Massachusetts's commission was established by legislature in 1994 out of a truth in sentencing bill. The state wanted to eliminate indeterminate sentencing and no longer wanted the parole board establishing sentences. Time off for good behavior was to be cut, but the commission has decided to continue good behavior as a reward for completing treatment programs. Early parole and early release were also discontinued.

Massachusetts Commission's Charge

The mission of the Massachusetts Commission was to promote truth in sentencing by promoting uniform sentencing policy with systematic guidelines and to integrate and incorporate intermediate sanctions into guidelines.

Commission Members

The commission was comprised of 15 people from various sectors of the criminal justice system. There were few legislators but the Commission has made a concerted effort to maintain a relationship with the legislature through a liaison.

There are nine voting members and six non-voting members. The voting members consist of three judges, three prosecutors and three defense attorneys appointed by the governor but nominated by their peers. The heads of several criminal justice agencies make up the remaining members.

Despite the diversity in perspective on sentencing matters, the report was unanimously adopted by the commission. They all may not have agreed with all the policies but support the package as a whole, which helps when presenting the guidelines to the legislature and public.

Getting the Work Done

The commission broke down into four committees:

- outreach and education - met with the public
- legislation - actually wrote the guidelines
- intermediate sanctions - determined which sanctions are effective and possible in the state and included them in the legislation
- research committee

A private criminal justice organization in Massachusetts critiqued the sentencing practices in the state. Carney reported that the results showed the system was "archaic, confusing and haphazard and lacked proportionality". There was also a lack of uniformity and truth in sentencing. The sentencing commission often referred to this report when making decisions about their guidelines.

Guideline Process

Carney reported that the committee tried to develop an open process in formulating guidelines and developed a prescriptive approach. Having already determined their mission, Massachusetts developed policies that fit their punishment/just deserts model. Their goal was to ensure incarceration of the violent offender and increase the prison time of repeat violent offenders. Non-incarcerative sanctions were developed for non-violent offenders to clear bed space for violent offenders.

The members of the commission represented their constituencies in the deliberations of commission but, in coming to a resolution, they were asked to consider the best solution for criminal justice system and general public.

Prison Capacity

The guidelines had to consider prison capacity and available resources. Using a population projection simulation model called PROPHET, they projected their offender population to increase. In addition, the guidelines could not be racially discriminatory or gender biased and they had to be guided by empirical orientation.

Although they created new guidelines, they observed the current sentencing practices which were already in a database. The department of corrections had a database of actual time served which the commission also documented.

When determining sanctions, the commission emphasized simplicity. The grid approach is easy to understand and aggravating and mitigating factors were kept at six each. Arguably there are more factors for both categories and they may be considered in each case, but the commission only chose six to be uniform in every case.

Focus Groups

Six focus groups were conducted in the beginning of the process to determine a general framework for the guidelines. As the commission determined they would be creating a matrix and where crimes would fall, they conducted focus groups with the criminal justice community, particularly prosecutors and defense attorneys.

Similar formats were used for each group. When public hearings were held, participants from past focus groups testified in support of the guidelines and also in legislative hearings. A total of 27 focus groups were held and the information was compiled into a document.

Commission members also attended professional associations' meetings and spoke about the proposed changes. In addition, commission members attended sessions during the National Association of Sentencing Commission meeting in Boston to learn more about the subject.

The commission used the press to share information about the process to the public. Judge Mulligan attended editorial board meetings and talked to reporters. The editorials that resulted were usually favorable and the articles were fair.

Current System

The state had voluntary sentencing guidelines in operation for superior courts only and guidelines were not

applicable if a plea was entered. The system was based upon a point system and determined numerically. Prior convictions were assigned points. More points were given for serious crimes or several crimes. The second determinant was the type of offender, which was descriptive, i.e., repeat serious violent offender. The more points, the longer the sentence.

The guidelines were needed because offenders were serving very short sentences and being released by parole boards. A parole eligibility date was 2/3 of the minimum sentence imposed for an offense against a person, 1/3 for a crime against property. A typical sentence of 20 years often meant the offender saw the parole board in two years (with good behavior and other time-reducing options). The new guidelines are based upon truth in sentencing. The parole eligibility date is the minimum sentence.

Sentences for each cell in the matrix were determined using empirical data. The number of offenders convicted in a year, how many went to prison, sentence imposed and sentence served were used to find a target sentence. The range for the cell would be a 20 percent differential from that target sentence. For example, a target range for an offender who would be given 10 years would be 8-12 years. Judges can still sentence above or below if they cite factors in writing. A departure above the guidelines is appealable by the offender, below is appealable by the state. The state's opportunity to appeal is a new option and has not been passed by the legislature yet.

There was debate over whether an admission or guilty plea that did not result in a conviction should be considered in the sentencing. The group determined that only convictions would be considered. Massachusetts also does not include committed offenses in which an offender has not been found guilty.

For crimes where there were two or more offenses committed in the crime, the commission agreed it was one conviction. If several crimes had the same arraignment day -- it was seen as one conviction, but prosecutors could rebut the decision if it was multiple crimes and it was coincidentally all handled the same day.

Disparities

The commission debated mitigating and aggravating circumstances and how they would affect the guidelines. They found some of their sentences can introduce disparities into the system. They do not have different sentences for trafficking crack vs. powder cocaine, but they do have a two-year mandatory sentence for distribution in school zones. This law affects mostly inner city residents because it is difficult to be 1000 feet away from a school in urban areas.

Fiscal Impact

Every commission needs to consider the financial impact guidelines will have on the system. Not only does prison bed space need to be considered, but also manpower. If community corrections is an option, probation and parole must have an adequate number of officers to handle new cases.

NANCIE ZANE

PUBLIC ENGAGEMENT

The Maryland commission members were asked to answer the following:

- Who are your direct constituencies or public?
- What do you think are their most salient concerns in sentencing reform?
- What would it take to have your constituencies feel heard by this commission? What are you looking

to hear from your constituencies?

- What are the kinds of outreach to the public that you think the commission should consider? (This was group discussion)

Commissioners gave the following answers:

- correctional administration
- media
- organized religion
- senior citizens
- league of women voters
- victims of crime
- local government
- John Q. Public
- defense attorney
- judges
- law enforcement
- correctional system

Citizens concerns

- fairness in equity
- violators off the street
- balancing/ assessing resources from prison and the community
- truth in sentencing
- disparity in sentencing
- restorative justice
- more effective use of public funds
- revolving door
- public safety
- input on local corrections (funding)
- changes in time
- privatization
- elimination of flexibility in utilizing judges
- shifting power from judges to states attorney, prosecutors
- distinction of guidelines between federal or other
- how to evolve media in useful/proactive way
- quality of life (getting offender off street, protecting property)
- need structured stimuli that they could respond to rather than hearing personal stories
- take hypothetical situations so the public see what the commission deal with so they don't tell personal stories, focus on questions the commission is trying to answer
- public and legislative sequence of hearings
- use the editorial boards and reporters to convey info
- print and broadcast media
- use organizations likely to discuss these topics, League of women voters, civic involvement
- need to know they are heard and represented by interest groups
- how does my group know my interest is represented?

Strategies

- take information back to the public so they know you heard them

- include wide range of presenters about multiple issues to represent various constituencies
- involve organized criminal justice folks, bar associations, sheriffs, judges
- use focus groups
- polling-separately, public's attitude about specific issues
- poll focus groups

PANEL PRESENTATION

John Gorszyk

Commissioner, Vermont Dept. Of Corrections

Vermont saw punishment, deterrence, incapacitation or treatment as their range of options for the department's mission. They decided punishment creates no desirable behavioral change unless it is administered immediately after the crime. Deterrence should not be their main focus because it is not effective. Gorszyk used the death sentence as an example of the ineffectiveness of deterrence. Crime levels have either remained the same or slightly increased in states that have incorporated the death sentence. Incapacitation has been effective because the offender is not able to reoffend, but it is expensive. They determined that the order of importance for their guidelines should be treatment, incapacitation, deterrence and punishment. In addition, reparation should be included.

Vermont also examined their data on recidivism rates and determined that no correlation exists between the severity of an offense committed and the recidivism rate. They did find that there was a proportional increase in recidivism rates as the risk level increased. They also found that high severity-moderate and high risk offenders are the only offenders who show improvement after incarceration. Most offenders are moderate risk and moderate offense severity.

Assessing Risk

Mutable vs. Immutable

Mutable factors should be used when assessing risk. These factors are changeable vs. unchangeable. If an offender commits a crime as a youth, his risk level never changes, despite other signs that he has been successful after that point. Mutable uses substance/alcohol abuse, attitude toward education, marriage, employment over last 6 months and other factors that can change to assess risk.

Public Perception

A public opinion poll showed 75 percent of the public thinks whole system needs to be revamped. Their responses showed they expect the criminal justice system to provide the following:

- safety from violent predators
- accountability for violators of the law
- repair of the damage done
- treatment to assure safe release
- involvement of the community
- assurance of quality and efficiency

Retributive vs. Restorative Approach

When a crime occurs, the offender swings the offender/victim equilibrium in his favor. Using a retributive

approach, the offender is sentenced and his side of the scale decreases to the level of the victim. They are both negatively effected, creating a lose-lose situation. A restorative approach would require the offender to restore the victim back to his original state.

The retributive approach focuses only on the offender: money is spent on the offender for jail time, treatment and lawyers.

The restorative process focuses on the offender, the victim and the community. Vermont has restorative probation where offender must pay back the victim and community with interest. This process teaches the offender the following:

- the effect of their behavior and the impact of the crime
- ways to avoid re-offending
- provides restoration to victims and makes amends to the community.

Best practices

- Cognitive behavioral intervention works best.
- Offender must be accountable
- Offender typology must be matched to intervention.
- sex offenders
- violent offenders
- domestic offenders
- property offenders

George Keiser, Chief, Community Corrections Division

National Institute of Corrections

Politics of Non-Incarcerative Options

The commission needs an idea that involves all of the major players. In the late 1980s there was an idea to bridge the gap between judges and probation officers by getting them together with a few other people to approach sanctioning offenders. They decided that legislators, defense and prosecuting attorneys, community corrections administrators, judges and sheriffs were crucial to the success of the project. Victims' rights advocates were not invited, nor were people who not directly involved in the system.

Prison vs. Alternatives to Incarceration

Politicians and the public describe incarcerating offenders as being "tough on crime." Incarceration is another form of welfare. An offender is given food, clothes, shelter and medical insurance. If we really want to be tough on crime, then we would not have welfare for offenders but utilize non-incarcerative options.

We need to determine what we expect from offenders when they are released and target solutions and programs that will produce results. We have trouble determining what activities will reduce the risk of re-offending. The offender population must be examined so preventative measures can be implemented in probation.

Principles of successful jurisdictions

- Clarity of outcome - What are they producing and how do you measure the outcome (financial payback to community and individual victim of crime-need a system of tracking and measuring)
- Non-official community involvement - How do they fit in the outcome we have presented (providers and other resources)
- Community Programs - There are places where citizens are afraid to leave their house because of illegal activity in their neighborhood. This created the advent of community programs (COPS, neighborhood watch, etc). These are the departments who do very well with the media. They use editorial pages as well as general pages.
- Research and development - One commission created a private organization affiliated with a public institution to receive funding as the funding source said that they require only grant funding to a private institutions.
- Joint partnership - Several people are supportive of the idea and will help create a plan of action. They are more inclined to be committed to making the project successful. Creating programs and enrolling the legislature and others but not including them in the process allows for blaming when and if the project is unsuccessful.
- Leadership - There is a lack of leadership in the criminal justice field. The history shows that long-term strategies are not developed and the turnover rate of leaders in the field is high.

Judy Greene, State Centered program

Best Practices

The Carolinas

Both Carolinas are trying to develop truth in sentencing without causing financial strain on the system. In addition, ballot initiatives and mandatory sentences have been considered but Ms. Greene warns that mandatory sentencing will cause the prison population to double. Prisons and other resources must be capable of handling the increase or the system will collapse.

Politicians and Guidelines

Politicians will be easier to enroll if you have documented public perception. Some beliefs about the criminal justice system are national, but some are indigenous to individual states and that should be of great concern. Focus groups and non-intrusive polls can be used to determine public perception.

Public Opinion in Carolinas

- It is essential to acknowledge lack of prison space and consider other types of sanctions when talking to the public. They need to see a complete picture.
- Most of the public supports community service, shock treatment, intensive probation, day reporting centers and other alternatives to incarceration for non-violent offenders
- The public generally supports mandatory drug and alcohol treatment even if it costs more and they also want treatment for the mentally ill. North Carolina is particularly in favor of treatment for the mentally ill because they have an abnormally high number of these cases.
- State citizens are very clear about the type of punishment offenders receive and the goal of their criminal justice system.
- Boot Camp - They are very supportive of boot camp/shock with hard work that will defray the cost

of incarceration, GED or job skill training and guidance with "tough love." They do not want meaningless labor or sadistic drill sergeants.

- Community Service - The public wants hard productive work that will pay back the community by offenders wearing noticeable DOC orange uniforms. They do not want easy jobs, like working in a library, short sentences or light labor.
- House Arrest - A work component should be included, and watching tv or selling drugs from their living room should not be allowed.
- Strict Probation - They also want this to include a work component and want more than just monitoring the offender closely.
- Restitution - Offenders should pay back their victims to the best of their ability but should not have to go to jail or prison because they cannot make payments.

N.C. Continuum of Sanctions

In this order:

- regular probation
- house arrest
- intensive supervision probation
- day reporting center
- residential facility
- shock (boot camp)/special probation
- split sentence/special probation

Judges have these options when they sentence an offender based on the sentencing guidelines.

The Matrix

North Carolina's matrix has nine offense categories, **A** being the most severe and carrying a life with parole or death sentence for all offenders, and **I** being the least severe carrying a sentence of community punishment or incarceration depending on the prior record. The offense, combined with prior convictions for criminal activity, dictates the type of sentence and length. All crimes in the **A-D** range require incarceration regardless of prior convictions. Repeat offenders stay in prison for longer amounts of time. The other crimes have sentences from incarceration to community sanctions depending on prior convictions and type of crime. Some cells allow judges to determine whether an offender receives intermediate sanctions instead of incarceration; or community service instead of intermediate sanctions.

The state's guidelines are presumptive so there are appeals allowed. There has been 100 percent compliance in all cases when offenders were sentenced to community corrections or intermediate sanctions. Most offenders fell in the intermediate sanctions zone.

Sanctions in Phoenix

Phoenix's sanctions include, in this order:

- financial penalties
- summary probation

reverse. If an offender is living in an apartment that is infested or unsanitary, corrections can call the health department. This idea is difficult to utilize in the inner cities because there is so little private sector available to provide jobs.

Q: What is the disconnect between what the public says it wants and the political body that does not address it, but instead speaks about getting "tough on crime" ?

A: There isn't an answer except to engage the public past the soundbite. Politicians do not always conduct their own public opinion polls and will use an already existing poll often without checking the background information. (The intent of the polling organization, who conducted it, what questions were asked, the number of people in the survey and how they were selected, etc.) One way to get the message across to politicians is to use the media, public journalism, the League of Women Voters and other community leaders to engage in structured discussions what the public expects from the criminal justice system.

Q: Diversion and violent offenses (which in Maryland, includes drugs), paired with mitigating factors which favors middle-class and wealthy kids, paired with immutable factors such as a prior record, will result in disparities in incarceration rates. How do you address this?

A: The reality is that there will be disparities unless the court is based at the community level where we can handle our own offenders. Offenders probably will not get the same treatment at a court on the state level as in their own neighborhood. Community courts and community policing are two other ways to address disparities.

Q: Are there any offenders restoring justice while incarcerated?

A: Vermont is doing some. Some victims' groups said they do not like receiving a \$10 check every month or a letter from the state saying the offender is unable to pay the fee that month but will make it up later. The state is trying to pay monetary restitution up-front and have the offender pay back the fund. Vermont is also working on community group welfare assistance. Offenders are contributing toward the gas and electric bills for those families who are unable to pay their bills and help stock food shelves. This works in Vermont, but other states may not be willing to accommodate such a program.

Dr. Charles Wellford

Disparity in Sentencing

Warranted vs. Unwarranted Disparity

Dimensions of an offense or offender that someone has deemed legitimate to use in making decisions about an offender versus everything else that may affect the case. Most states agree that warranted disparity is a longer sentence for an offender with a prior record. But whether an offender should receive an adjusted sentence because they plead guilty may be considered warranted disparity in some states but an unwarranted disparity in others.

The current guidelines in Maryland use the following warranted factors:

- prior adult record
- seriousness of the offense
- juvenile record
- parole or probation violation

Indirect Disparities

The current sentencing matrix is relatively broad with a lot of overlap between offenses, such as a 5-10 year sentence for one crime and 7-12 years for a more serious crime. Two offenders may serve the same sentence although the latter may have a longer criminal history or may have committed a more serious crime.

Another example is guidelines that use unemployment over the last 6 months as a mitigating factor. Minorities have higher unemployment levels, which would result in an indirect disparity.

Data on Disparity in Maryland

The largest disparity is in the low level offenders and offenders with several prior convictions. Black offenders with little or no prior record serve about 100 days longer than whites and black offenders with several priors serve about three years longer. The data is based on time sentenced, not time served. The idea that parole eliminates these disparities is questionable.

The data on percent of offenders incarcerated shows a slight disparity in low level offenders with little or no prior background. Black offenders are incarcerated at a higher rate than white offenders with similar offense profiles and prior records.

Reducing Unwarranted Disparity

The commission has several options for reducing disparity

- flat time fixed authority with no paroling
- mandatory minimums
- sentencing guidelines in addition to indeterminate sentencing
- making sentences more presumptive
- narrowing the ranges of sentencing without overlap
- reducing a judge's ease of straying

COMMISSION REQUESTS/INFORMATION NEEDS

- Want to look at trend lines based on changing definitions on what is considered "violent"
- Are there any jurisdictions doing a good job building work programs that will help people who do not have marketable skills?
- What are the impediments to working in the private sector? What are their reactions to hiring released offenders?
- What is the possibility of developing WPA projects for offenders/ex-offenders without union opposition?
- Information is needed on public opinion in Maryland (what do they support, stratified sample by age, geographic location, education, etc.)

Judge Thomas Ross

Chairman, North Carolina Sentencing and Policy Advisory Commission

Topics Discussed

- Problems North Carolina faced in 1990
- Problems in the process in developing the system
- Results/How it is working
- Public opinion survey

North Carolina's Problems

Judicial sentences were beginning to lose meaning because prison overcrowding and a legislative cap forced parole boards to release more offenders. Misdemeanants breezed through the system, serving 5-12 days instead of 2-3 years. Offenders were refusing alternatives to incarceration because they knew they would be released from jail quickly. Probation or community service would require more work and be a long process.

The number of offenders incarcerated for drugs increased quickly as the drug trade grew and police officers were instructed to arrest all drug offenders. This contributed to a boom in the prison population and forced reductions in the length of sentence served. In 1991 offenders served 25 percent of their sentence; in 1993 it decreased to 18 percent; and in 1998 the projected amount of a sentence served would have decreased to 12 percent.

N.C.'s Commission goals

1. Set priorities, i.e., violent offenders removed from the community; truth in sentencing
2. Provide underlying rational basis for sentencing: Why do we treat armed and unarmed robbery differently? The property is gone and the victim is scared.
3. Enhance consistency in sentencing.
4. Enhance certainty in sentencing, i.e., plea bargaining became difficult because no one knew what a sentence meant or the amount of time the offender would actually serve.
5. Promote truth in sentencing
6. Efficiently use existing resources and plan ahead (North Carolina was not successful in getting increases in funding. Long term planning may have allowed them to lobby legislators in advance for budget increases.)
7. Balance sentencing policies with resources. (Cannot continue to incarcerate offenders if there aren't any prison beds)
8. Use a computer simulation model for population projections.

Process of Creating Guidelines

- Looked at offenses committed in the state.
- Look at offender population.
- prior convictions
- drug problems

- education
- family
- support network in the community

These factors are important but, excluding prior convictions, there are not always resources available to get this information in every case. North Carolina decided only prior convictions would be used in the guidelines, but other factors may be considered when sentencing.

3) Developed a grid of seriousness of offense (*A* through *I*) and priors (*I* through *VI*).

4) Determine sanctions for each cell. North Carolina wanted to develop a continuum of sanctions from the least restrictive (community and intermediate sanctions) to the most punitive (active). They came up with the following resources:

- Boot camps - They revamped their old boot camps and it now includes aftercare and other support.
- Residential programs such as Delancy Street and Summit House.
- Day reporting centers - Before guidelines they didn't have any, now they have 60.
- Intensive probation, but have made more restrictive and punishment,
- House arrest and electronic monitoring
- Community service
- Fines

5) Who goes in each block?

- Classes *A* through *D* are violent offenders.
- Classes *H* and *I* are nonviolent offenders.

Forty percent of all offenders fall in the *H* and *I* category with little or no prior record. All offenders in the *H* and *I* category account for more than 60 percent of the offender population. Offenders in *D* or above are 10 percent of the prison population.

Knowing the offender population is essential to determining sanctions. Judge Ross said the commission had to be cognizant of the impact of their proposed guidelines. Their commission bought a laptop to each meeting and played around with the numbers using a population simulation model to determine which models would be effective, but not overload their resources. Ross offered to lend the Maryland commission the simulation model and any other material that North Carolina has available.

Judge's Discretion

Several judges expressed their dislike of sentencing guidelines, arguing they were losing their discretion. Ross said there were two responses to that complaint: 1) parole boards were determining the sentence under the old system because of the overcrowding and 2) the public does not want judges to have complete discretion in sentencing because of possible disparities.

The current guidelines allow for discretion in several cells. Low level offenses committed by an offender with few or no prior convictions can either be sentenced to community or intermediate sanctions or intermediate sanctions. An active sentence for those offenders with several priors. In addition, each cell has a range for aggravating, mitigating or average sentence. If the judge finds that the aggravating factors outweigh the mitigating factors, they can impose a sentence on the higher end and the offender is not eligible for parole until he serves the minimum sentence from that range. The same practice holds true for mitigating factors. For example if they are sent. 20-24 months, they serve not less than 20 nor more than

24.

There are about 20 both aggravating and mitigating factors that are listed and the judge writes which is outweighing. If the judge uses a non-statutory aggravating or mitigating factor, he tells the court clerk what it is and hands down a sentence.

Impact of decisions

- Increased incarceration rate for violent offenders. Level A-D offender incarceration rate is 100% and doubled time served for those who go to prison.
- There has been a drop at the bottom category of more than 20% serving time. The number of people in the bottom category was a drain on the system and they occupied beds that should have been used to keep violent offenders.
- The DOC can now create treatment programs for offenders because they know how long he will be incarcerated.
- Better sense of why we punish.
- Reduced racial and gender disparity.
- Certainty when plea bargaining.
- Truth in sentencing.
- Set priorities in sentencing.
- Balance priorities with resources.

Q: Did you look at some cases to see if they are getting the right result?

A: If a judge finds extraordinary circumstances, especially with women killing an abusive spouse or lover, or other unusual cases, the judge can override the sentence. There has been only one case that has deviated from the guidelines.

Results for Probation Officers

- Reduced caseloads - Normally probation is 5 years, taking up a lot of resources. Probation has been reduced to 3 years to felons and 18 months for misdemeanants. Judge Ross indicated that you can not hold their hand forever.
- Probation revocation has decreased since 1993
- Probation officers feel they have more power because they have the authority to adjust an offender's position on the continuum of sanctions without going to court for minor adjustments. For example, probation officers can add community service or electronic monitoring to an offender's probation.

Reactions

Judges in the district court had a tough time adjusting to the guidelines because their caseload is great. In addition, they were concerned that a sentence given in days doesn't sound as strict and may give the appearance of being soft on crime. District court judges are elected, making it important for them to appear harsh on criminals.

District attorneys were always strong supporters because the guidelines tackle violent crime. However, they complained and advocated changing the bottom left corner of the matrix (community and intermediate sanctions). There were a few changes made in some cells but there was also some compromise.

Defense lawyers hated the guidelines at first because they did not think they would have the opportunity to argue their cases, but they feel the system is working. In the past, their client either went to prison or did not. Now they know the judge has a number of options he can choose for sentencing.

Smaller and more rural areas were not pleased with the guidelines because they wanted all offenders incarcerated. However, when you explain that offenders have to be released so the dealer who gets caught with one rock can go to prison, most will accept and understand the guidelines. Ross said everyone may not like the guidelines, but they all understand the lack of resources.

Law enforcement officials think it is a better system, but they don't like certain offenders being released or serving short sentences, particularly prostitutes and street dealers because they are a nuisance.

Public Reaction

The public was generally in favor of guidelines. Their responses to some of the questions are given below.

Beliefs about the court

75% of the rich are treated better than poor

39% whites are treated better than blacks

Structured sentencing

Guidelines will be used by judges to provide equity in sentencing. No matter who the judge is or where the crime is committed, the sentence will be the same. Do you agree with this even though the judges do not have complete discretion in their sentencing?

83% said yes

14% said no

Truth in sentencing

The poll taker explained the old system of being sentenced to 10 years and serving 2 years. They told the participant that the new sentences will sound like a short term but that the offender must serve the whole sentence and asked if they were in favor of this.

66% said yes

28% no

This question was followed with "violent offenders stay in prison longer".

88% said they agree with this system

When should violent people go to prison?

95% said most or all of the time

When are violent people sent to prison?

25% most or all of the time

72% half or less than half

(The question may have been unclear. Some participants may have responded as to what they think is the actual time served, or that offenders are never apprehended or are not convicted, etc.)

How often do they serve the full sentence?

68% said less than half or never

Treatment

84% want mandatory treatment even if it costs more, less than half know that treatment isn't always successful

79% want treatment for mentally ill

71% want GED classes available for offenders

General Opinions

91% think every inmate should work 40 hours a week even if it costs more money

90% make sure violent offenders are never released early because of overcrowding even if we have to pay more taxes to build prisons

74% reduce tv watching even if it makes it harder to handle the population

64% said offenders come out of prison more dangerous