

Summary of National Association
of Sentencing Commissions
Conference
Baltimore
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Many presentations on line
<http://www.msccsp.org/nasc2009/>

- The following excerpts adapted from many presentations including by:

- Alfred Blumstein
- Cassia Spohn
- Charles Wellford
- Anne Morrison Piehl
- Kent Scheidegger

While some presenters disagreed on points with each other this summary is intended to note the big picture agreement and themes.

John Hogarth noted in 1971:

The fundamental problems in sentencing arise from the fact that there is a lack of agreement as to the social purposes that sentencing should serve, and a lack of evidence as to the effectiveness of different sentences

Some Brief History to Provide
Context

- Indeterminate Sentences (Min- Max) – prior to mid-70s
- Lots of discretion to judges
- Much flexibility in parole boards' release decisions
- Risk assessment in "salient factor score" or equivalent
- Impressively stable incarceration rates
- Incarceration policy controlled by the CJS
- Sins of the scientists
 - Evaluation of rehabilitation – narrow treatment technologies
 - Results were largely "null-effects"
 - Conclusion that "nothing works"

Political response

- Initially from the Left: "Do less"
- Response from the Right: "Lock 'em up"
- Support from the concerned public: "Do Something" about crime
- Legislative Field Day: mandatories, 3-strikes, determinate sentences
- Presumed effect on crime regardless of the evidence (e.g., drugs)
- Escalating process: "Tough" vs. "Soft" on Crime
- Regime change: control moved from CJS to legislature to DAs
- Sentencing guidelines sometimes intended as a restraint on the runaway legislative process – only limited success
 - Concerns were "disparity" (treat similar crimes similarly) and "proportionality" (right amount of time, incarceration for the nature of the crime and the criminal)
 - Sometimes guidelines "descriptive" (norm what is happening) and sometimes "prescriptive" – different results (e.g. violent offenders will serve more time while non-violent first offenders get intermediate sanctions).

Changes in incarceration rates
fueled by policy changes (Zimring 2001)

- 1973-mid-1980s
 - Borderline offenders go to prison vs probation
- 1985 to 1992
 - Greater likelihood of incarceration and longer sentences for drug offenders
- 1993 onward
 - General lengthening of prison sentences: emphasis shifted from "lock 'em up" to "throw away the key"

Blumstein & Beck (2004)

- 88% of the tripling of the prison population from 1980 to 1996 could be explained by changes in imposition of punishment
 - 51% due to greater likelihood of incarceration after conviction
 - 37% due to longer prison sentences

Assessing the impact of the sentencing reform movement

- Sentences today are more punitive than in the past
- Studies find small reductions in crime from expansions of prison population.
- Sentences overall are more uniform but racial/ethnic and sex disparities in sentencing have not been eliminated

Where We Are Now

- States facing serious budget crunches
- Emerging coalition of fiscal conservatives and those concerned with treatment and prevention
- Crime rates are at their lowest level since the 1960s
- States seeking ways to reduce prison and jail populations
 - Increasing awareness of interdependence of secure beds at state and local level and need for comprehensive policies
- Consequent constraints on sentencing guidelines
 - Want fewer in and shorter time served
 - More explicit concern for offender risk in the community
 - Rarely take account of recency (to reflect declining risk with time clean)
 - Some states trade off longer sentences for some (e.g. robbers) with shorter for others (e.g. drug offenders).

What Makes a Good Investment?

- **Target population:** Keep marginal people from penetrating more deeply into the system has high payoff. Focus corrective interventions at those on the cusp, as they are the most likely to have behavior altered by the intervention.
- **Program fidelity:** Providers who deviate most from prescribed program elements have the weakest results.
- **Scale:** If a wing or unit or prison can be closed, savings can be substantial

Consider the purposes of sentencing

- Incapacitation
- Deterrence
- Retribution
- Rehabilitation
- Restoration of victim and offender

Any policy change will have impact on each of these purposes