

CATEGORIZING OF RESPONSES

Reducing Sentencing Implementation Complexities and Errors

- 1) What are the implementation complexities and errors that need to be reduced?
- 2) Why?
- 3) Ideas about how to reduce?

JUDGEMENT & SENTENCE FORMS

- Complexity: J&S forms across the state
- Need Standard J&S
- J&S forms differ across the state. Sentence miscalculations are too frequent.
- More uniformity of judgement and sentencing forms across counties.
- Establish a uniform worksheet for all counties to use state-wide in order for sentences to be calculated correctly.
- Inconsistency in sentencing documents. At least 10% of J&S documents received by DOC have issues that need to be clarified:
 - Illegible
 - Blank/missing info
 - Math errors
 - Appear inconsistent with statute
- Solution:
 - Standard J&S
 - Judicial branch Q&A process

SENTENCING GRID: ENHANCEMENTS, MULTIPLIERS, AGGRAVATING & MITIGATING FACTORS

- Complexities:
 - Classes of felonies which have no clear connection to sentencing levels
 - Some lower degrees of crimes are ranked as more serious than the higher degree of the same crime.
 - Different calculations for earned release time.
 - Enhancements that function different from aggravators
 - Mathematical formulas (the grid) to calculate the sentence plus a lot of “add-ons” for specific crimes
- Enhancements – reduce/eliminate
- Complexity of sentencing makes it difficult for all participants (judges, prosecutors, defense bar, victims, sentenced individuals, DOC) to understand the terms of the sentence.
 - Simpler rules
 - Fewer add-ons (enhancements, multipliers, etc.)
- Aggravating factors are urban/rural based

- Get rid of multipliers
- Get rid of different earned-time calculations
- Complexity: Enhancements/aggravators/mitigators rarely, if ever used

CONTINUALLY CHANGING LAWS

- Sentencing laws are continually changing – driving additional complexity and leading to errors.
- Additional efforts on training practitioners on changes are needed.
- Almost 40 years of continual statutory amendments – and court decisions – related to sentencing have resulted in maddeningly complex sentences, case-by-case.
- Piecemeal changes to a complicated “holistic” system w/o enough regard for how changes to one piece affects the others.
- The attempt to do justice in individual cases with a formulaic, one-size-fits-all, sentence

FLEXIBILITY/GREATER DISCRETION FOR JUDGES

- Allow judges at all levels to have more flexibility
- Give courts discretion to consider prior record, aggravating/mitigating factors as part of individualized sentences.
- Delegate contours of sentencing practice to local authorities, i.e. let judges, working within guidelines set the final parameters of the sentence.
- Give courts discretion to consider prior record, aggravating/mitigating factors as part of individualized sentences.
- Create opportunities for individualized tailoring of the sentence, by an informed judge-after hearing from an informed prosecutor and defense council.
- Give the courts more guidance and more discretion.

DATA AND TECHNOLOGY

- Update/invest in 2020 tech
- Lack of data-driven decisions
- Sentence and best practices have not directed sentencing laws or decisions
- Sentencing decisions driven by facts and data, not politics and fear.
- Look at models across the nation and sentencing data/facts and crime rates.
- Science and best practices have not directed sentencing laws or decisions

COMMUNITY SUPERVISION

- Make community supervision terms presumptively concurrent (rather than consecutive)
- Complexity: Different rules for concurrent/consecutive sentences.
- Build in clear plans for supervision

HOLISTIC / COMMUNITY-CENTERED PRACTICES

- Get back to the story of the person
- Community informed
- Restorative practices

- Sentencing has been directed by a date - Tough on crime values
- Sentencing is too narrowly focused on incarceration
- Sentencing has been divorced from goals of rehabilitation
- Sentencing decisions reflects the needs of the system, not the needs of the people affected.
- Sentencing decisions do not reflect the actual costs borne by communities affected by crime.
- Can't just be viewed as easier to incarcerate
- Sentencing has been directed by our outdated - Tough on crime values
- Sentencing is too narrowly focused on incarceration
- Sentencing has been divorced from goals of rehabilitation
- Sentencing decisions reflects the needs of the system, not the needs of the people affected.
- Sentencing decisions do not reflect the actual costs borne by communities affected by crime
- Focus on individualized sentencing
- Create mechanisms to (?) upon change of circumstances
- Sentencing not connected to other systems and needs of people impacted

Improving the Effectiveness of the Sentencing System

- 1) What is not working effectively?
- 2) Why?
- 3) Ideas about how to improve?

INDEPENDENT REVIEW OF SENTENCING'S EFFECTIVENESS

- Lack of an independent body that is responsible for reviewing statutory sentencing on an ongoing and comprehensive manner is short-sighted.
- Need for an independent and well-funded body to advise policy makers. Similar to how the SGC was originally designed (but not how it actually operated).

RESOURCES, PROGRAMS/SERVICES

- Recidivism/re-offense rates are too high. Inadequate rehabilitation programs and services →
- Inefficient use of resources
 - Consecutive terms of supervision – resources could be better used for reentry activities.
 - Also, a complexity issue.
- Not enough \$
- Not enough trained professionals in the system.
- DOC not equipped to deal with elderly folks.
- It's not working because we have a ballooning aging prison population that will cost the state.
- Little quality programming in some prisons.
- Inadequate healthcare in prisons.
- Challenges with family visits, building a support system.
- Sentencing can be improved by:

- Preparing the incarcerated for release.
- Housing, career training
- Mental health/drug treatment
- Transportation plan prior to release
- Anger management tools
- Tools/hope for a better life after release

SENTENCING PROCESS

- Sentences not properly individualized
 - One-size-fits-all thinking
 - Attempts to simplify
 - Tough on crime
 - Laws that promote an over-punishing era and Legislators fearful of being seen as too lenient
 - Age-appropriate sentencing
 - True second look available for all
 - Deemphasize retribution as goal
 - Focus on health, deemphasize punishment
- What is not working?
 - Length of sentences
 - Errors in scoring
- Why?
 - Revenge, not justice.
 - Consequences to communities/families not addressed appropriately
- How to improve?
 - Holistic approach
 - Diversion – alternatives
 - Radically change the grid
- Sentencing system targets disproportionate by demographic, e.g. stacking
- Sentences too low...~~services~~ while incarcerated.
- No way to return.
- Evidence shows long sentences have diminishing returns
- Low/no community options upon release.
- No chance (or very little) to resist initial sentencing decisions.
- Too much emphasis on responding to the “crime of the day”
- Too little opportunity for everyone impacted by crime to be considered in the sentencing process.
- Too much discretion in the hands of the prosecution only.
- Too few trials (coercive plea practices)
- Not working: lengthy sentences with no hope or opportunity for release
- Additional focus on risk-need-responsive (RNR) sentencing and sanctioning.

- Violation behavior rather than just violation count, and individual circumstances need to be considered in sanction response.
- Not working: inconsistent sentences that don't follow guidelines of RCW 9.94A.010 - Example: 5-year max for vehicle crime theft. "Free crime"
 - How to improve: review current sentences to ensure they work to achieve 9.94A.010

HOLISTIC / COMMUNITY-CENTERED PRACTICES

- Place needs of impacted communities at heart of sentencing paradigms.
- Excessive incarceration is counterproductive to successful reentry. Woefully inadequate community supervision/support. Inadequate focus on offender risks/needs/responsibility.
- Risk-based, more community-oriented responses; greatly increased programming both inside and outside the facilities.
- Need trauma-informed rehabilitative prisons.
- Let's visit European prisons to get inspiration!
- Too much emphasis on incarceration.
- Too little emphasis on rehabilitation.
- Too little consideration of the community as a whole.
- Too little consideration of – and opportunity for consideration of – individual circumstances and needs (this includes offenders and victims and the communities)
- Non-confinement alternatives for community supervision response to violations.

SUPERVISION

- Reduce recidivism via supervision of offenders who, research proves, will benefit from it.
- Tolling of supervision
 - Drives resources. Complex rules and lack of information make it difficult to track effectively.
 - Solution: Concurrent supervision, repurpose \$ for case management and eliminate tolling.

SENTENCING GRID

- The rigid nature of the sentencing matrix.
- What it does not allow for is the flexibility to address some of the most root causes of the offender's actions.
- Simplify the process.
- Sentence ranges are often too narrow which limits discretion in sentencing decisions.
- Ranges should be expanded.

PRE/POST-CONVICTION

- Reduce prison population and racial inequity in arrest and sentencing.

- Post-conviction review process will give offenders incentive to participate in rehabilitative programs.

Promoting and Improving Public Safety

- 1) What is public safety? – What does it look like?
- 2) What needs to be promoted and improved?
- 3) Why?
- 4) Ideas about how to promote and improve?

WHAT IS PUBLIC SAFETY

- Add to language, “transforming lives” - Change intent of language →
- All people are the Public and deserve inclusion.
- Public safety:
 - includes emphasis on health, and centered on people impacted by crime.
 - Includes efforts to reduce lethality and intensity of violence
 - Includes strengthened economic power of all communities
 - Means that our communities are invested in and believe in fairness of system
 - Is not incarceration.
 - Is to provide all communities with an environment that they can live in without fear.
 - Among other things is when the public is free from being victimized by crime.
 - Is healthy, vibrant, thriving communities.
 - Is not met through punishment and long-term sentencing.
 - Is when ALL people have their basic human needs met and have positive supportive primary relationships.
 - Mental health is accessible to ALL.
 - Poverty and racism are ended.
- Community environment is one where they feel comfortable/safe to live, raise a family, work and prosper
- What: only happens in a healthy, vibrant, thriving community.
- Do more good, Do less harm

IDEAS ON HOW TO PROMOTE & IMPROVE PUBLIC SAFETY

HOLISTIC / COMMUNITY-CENTERED APPROACH

- Public safety involves focus on needs of people affected.
- Sentences must be charged to truly address needs of people impacted and accountability of people responsible.
- Take into account the values that incarceration imposes on some in the community and balance that with what is accomplished via incarceration.
- Experiences and views of most impacted must be centered in direct decisions.

- Why: sentencing is individual but the cause for needing is community based.
- Dis-investment strategy that transfers to community-based responses/public health approaches.
- People making decisions also reflect communities most affected by those decisions.
- Reduce broken families. Increase personal accountability/responsibility!
- Improve the education system: more respect, and more/better career training.
- Homes where children have a supportive/loving mom and dad in their family/home.
- Invest in marginalized communities:
 - Wrap-around services in education
 - Homes for all
 - Healthcare accessibility – mental health; Sub treatment
 - Food for all
 - Love/connection for all
 - Opportunity for all
- Improve child labor laws so kids can work earlier.
- All public safety inclusion.

IMPROVE REHABILITATION & REENTRY

- Promote a focus on returning offenders to the community with tools to be successful.
- Invest in the success of offenders while they are being supervised.
- Put rehabilitation programs into the prison system. Make it mandatory for inmates to take the program before being released.
- Reintegrate those sentenced into the community to reduce recidivism.
- Support those offenders who, research shows, will benefit from support in the community.
- Increase/implement post-sentence/release services/programs.
- Supervision is not authorized for many non-violent felonies. This limits re-entry resources as well as system confidence in reentry programming.
- Removal barriers to full reinstatement at community rate
- Increase ability to leave when its time
- Idea: develop a multi-based early release model.

ALTERNATIVES TO INCARCERATION

- Alternatives to warehousing/punishment focus; ways to decrease prison population.
- Decrease incarceration as only option
- Maximize the use of system alternatives to incarceration.
- How: alt-based, community based
- Increase restorative justice programs/services
- Change is expensive when incarcerated
- Take a second look at causes during incarceration, when lengthy periods of confinement are imposed.

- Fund alternatives and use best practices.

ACCOUNTABILITY

- Strengthen accountability for violent offenders
- Incarcerate the right people, in the right way, for the right amount of time. This is an individual determination based on offense, individual needs/opportunities, and resources
- Lock up those who need to be locked up;

OTHER IDEAS FOR WHAT NEEDS IMPROVING

- System professionals must be willing to cede power to others.
- Racial disproportionality and class differences must be overtly and intentionally addressed at all levels
- Diversion, , prison reform, sentence length, stacking, race, etc.
- Public safety requires appropriate and equitable distribution of resources.
- DO NOT USE VICTIMS AS PAWNS TO PUSH “TOUGH-ON CRIME” AGENDA. Don’t speak for all victims.