

Selected slides from:

**A SENTENCING SYSTEM THAT WORKS:  
HYBRID PRINCIPLES AND PROVEN PROCEDURES IN  
WELL-DESIGNED GUIDELINES SYSTEMS**

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# I. Sentencing purposes and other principles: They often conflict, and *all* systems must reconcile them

Purposes: Just Deserts *AND* Crime Control (+ other goals, e.g., restorative justice, avoiding racial + ethnic disparities). The concept of limiting retributivism helps resolve the conflicts.

Factors: Offense seriousness (sentence proportionality) *AND* Offender characteristics (prior record, recidivism risk, in-prison worsening of the offender)

Decision processes: Rules *AND* Discretion

*Whose* rules? (the legislature *AND* the commission *AND* corrections department(s))

*Whose* discretion? (judges *AND* prosecutors *AND* corrections agents)

Sanction alternatives: Prison or jail *AND* Probation/ other intermediate sanctions

And all of this *within* :

Resource limits – we have to prioritize, be efficient, cost-effective

## II. Sentencing guidelines + other structural models

Traditional Indeterminate Sentencing – judges have unreviewable discretion to select any sentence within a broad range (from unsupervised probation, to the statutory maximum prison term). For prison sentences the parole board has unreviewable discretion to choose early, late, or no parole release.

Sentencing Guidelines – judges start with a recommended sentence for typical cases of this type and may depart up or down from that, stating reasons, when atypical circumstances are present. Some guidelines systems provide appellate review, at least for departures. Most guidelines systems have replaced parole-release discretion with limited credits for good conduct in prison. But some guidelines systems are closer to traditional sentencing, retaining parole discretion and/or unlimited judicial discretion.

Mandatory (minimum) prison terms – no judge or parole-release discretion.

## II. Structural models of sentencing, cont'd:

How well does each model reconcile the sentencing purposes and other principles identified above?

	<u>Indeterminate</u>	<u>[MN] Guidelines</u>	<u>Mandatories</u>
<u>Purposes:</u>	rehabilitation, incapacitation	all	deterrence, incapacitation
<u>Factors:</u>	mainly offender characteristics	all	only offense severity +/or prior record
<u>Process:</u>	discretion	rules + discretion	rules
<i>whose rules?</i>	<i>(no one's)</i>	commission + legislature	legislature
<i>whose discretion?</i>	Judges + parole bds	all actors	prosecutors
<u>Alternatives:</u>	all?	all	<i>only</i> prison
<u>Efficient?</u>	sometimes	yes	no