

## **Summary of the 1998 Annual Conference of the National Association of Sentencing Commissions**

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The National Association of Sentencing Commissions (NASC) was established in 1994 to serve the growing number of states with an interest in structured sentencing. Its mission is "...to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate on issues related to sentencing policies, sentencing guidelines, and sentencing commissions." We do this through annual conferences, a newsletter, a website under the home page of the United States Sentencing Commission, and most recently through a "Research in Action Partnership" with the National Center for State Courts and the Conference of State Court Administrators, funded by the National Institute of Justice. More than one third of the states are developing or have implemented some form of structured sentencing.

The need for an organization like NASC became clear in 1993 when the University of Colorado School of Law held a Symposium on Sentencing Reform in the States under the leadership of Professor Kevin Reitz. The symposium provided a unique occasion to step back from the federal focus on sentencing and discuss the concerns and common interests of states. We quickly realized the value of opportunities such as this to learn from other states' experiences, and to recognize similarities in problems.

To continue this exchange, a national conference was planned for the following year in Seattle for all jurisdictions with, or interested in, establishing a sentencing commission. Over 70 people from 17 jurisdictions attended, representing a wide range of experiences. The informal nature of the conference allowed for enhanced discussions of many aspects of the development, implementation, maintenance, and evaluation of structured sentencing. Subsequent conferences were held in Boston (1995), Madison (1996) and Palm Beach (1997). Annual attendance has grown to more than 100 people representing sentencing commissions, the academic community, and others.

This article summarizes<sup>1</sup> the 1998 Conference held in Minneapolis, focusing on the theme of "Balancing Discretion." How sentencing discretion is allocated among players in the criminal justice system is critical to the success of a structured sentencing system. For example, if one goal is to achieve "truth in sentencing," it is self-defeating to allow correctional officers discretion to release offenders early to ease prison crowding. Likewise, too much discretion in the hands of prosecutors for charging and plea agreements can limit real gains in uniformity or proportionality at sentencing. It is critical, and difficult, to keep discretion in a balance that supports the goals of the sentencing system.

## **I. Keynote Address**

Kay Knapp, former staff director of both the Minnesota and U.S. Sentencing Commissions, one of the most important leaders in structured sentencing, delivered the keynote address. Entitled *Back to Basics*, it is included in its entirety in this Issue. In it she articulates the fundamental importance of how discretion is allocated, and states her preference for placing a greater share of discretion with the judge.

To illustrate the points made by Ms. Knapp, Professor Kevin Reitz presented diagrams showing how discretion might be allocated in sentencing systems, distinguishing between discretion at the systemic or policy level, such as the legislature or sentencing commission, and discretion at the individual case level, exercised by the prosecutor and judge. The diagrams portrayed the difference in allocating discretion between an indeterminate sentencing system and a system controlled by statutory mandatory sentences. In the first, the executive branch held the most discretion in determining the release date of offenders through a parole board. In the mandatory system, the prosecutor, via charges, has the most discretion.

## **II. Sentencing-Whose Decision Is It?**

The conferees met in roundtable breakouts to discuss the various places where sentencing discretion might be allocated.

### **a. Legislature**

Representatives from Washington, North Carolina, Pennsylvania, Minnesota and the National Council on Crime and Delinquency discussed how legislatures control sentencing discretion.<sup>2</sup> The enactment of "three strikes" laws and other mandatory sentences were used as illustrations. Because the legislature has no ability to enforce its policies at the case level, much of the discussion focused on the disparate impact of these laws. In most states with a three strikes law, prosecutors have discretion to charge or not charge an offender with three strikes, thus controlling who goes to prison for life. Because they charge three strikes far less often than the total number of qualifying offenders, the impact on prisons has been less than expected. However, because prosecutorial practices vary from county to county and can change unexpectedly, these laws could cause huge population increases in the future.

The panel also discussed how legislatures erode the effectiveness of sentencing commissions by micro-managing sentencing policy. The heavy political focus on crime pushes many legislatures into passing mandatory laws that override commission policies and cause disproportionate sentences. Lengthy drug sentences and high sentences for violent offenders were examples of how legislatures have left some commissions with less discretion to set proportional sentences.

### **b. Judges**

A panel of judges from Pennsylvania, Delaware, Minnesota, North Carolina, and Kansas discussed their authority to sentence by focusing on a case scenario involving a drug crime.<sup>3</sup> Under structured sentencing where the releasing authority has been abolished or severely limited, the judge has

increased discretion to decide the actual length of prison time. However, judges often feel they have less discretion because it is structured and they are required to explain departures from the recommended sentence. In some jurisdictions, judges frequently depart from the guidelines in drug cases. In other places, drug offenses are controlled more by legislative guidelines, prosecutorial practices, or special drug courts.

Judges expressed concern with the public disclosure of departure information broken down by individual judge. Simplistic representations of complex sentencing practices involving departures can result in misleading characterizations of particular judges as lenient or harsh. In turn, these "labels" can affect election politics in states where judges must run for reelection. Some believed that publishing this type of information can lead to fewer departures, even when departures are appropriate. Some judges believed the election process was not a good way to select judges. Judges must be objective and neutral and ought not run on issues or receive partisan support. The independence of the judiciary is critical.

Another impact on judicial discretion was the plea agreement. In some jurisdictions, offenders can enter into a binding plea agreement that places the judge in a position either to accept the plea and follow the negotiated sentence or send the case to the trial calendar. Some judges feel pressured to take the plea. Others believe that sentencing decisions should remain in their control and convey this message to the prosecutor.

Judges acknowledged that the balance of discretion shifts on a case by case basis. It also shifts as the legislature enacts mandatory penalties by placing greater discretion in the hands of the prosecutor.

### **c. Probation and Corrections Officers**

A panel representing community corrections, probation, and parole from Minnesota, Oklahoma, and the American Probation and Parole Association discussed the role of corrections professionals in guideline systems.<sup>4</sup> Guidelines provide standards and structure to help determine the appropriate sentence, but probation officers often do not wish to be bound by them when making recommendations to the court. They want to use their knowledge and skills to present a comprehensive overview of each offender. Guidelines should be flexible enough to allow for consideration of individual differences. Workloads should be kept at reasonable levels to allow probation agents to fully do their jobs.

Discussion focused on gaining support and funding for more community sanctioning in states that depend heavily on prisons. When developing policies to increase the use of community sanctions, all players should participate and be kept informed of current sentencing practices and the impact of proposed policies on these practices. Training and education should be sensitive to public concerns that lower reliance on prison will result in rising crime rates.

While structured sentencing can improve the sentencing system in respect to proportionality, predictability, visible public policy, accountability and balanced prison resources, there are disadvantages to consider when implementing guidelines. Among those discussed were (1) the period of supervision after release from prison may not be long enough to help the offender achieve

a successful transition into the community; (2) too much discretion may shift to prosecutors with whom probation officers have little influence; (3) too much reliance on guidelines may limit important information gathered about the offender; (4) not enough focus may be given to successful risk assessment tools because guideline philosophy does not take them into account; and (5) potential conflicts with guideline philosophy may create new sentencing paradigms such as restorative justice, sentencing circles, and community sentencing.

#### **d. Prosecutors**

A prosecutor and a defense attorney from Minnesota, a prosecutor from Massachusetts, and a researcher discussed issues surrounding prosecutorial discretion in a guideline system.<sup>5</sup> Both prosecution and defense have learned to appreciate and prefer the structure of a guidelines system. It provides predictability for negotiations and helps focus plea agreements on the charges. Judges maintain the greatest amount of discretion because they control the sentence and can depart from guidelines sentence below a plea agreement. There was a general belief that state guidelines differ from federal guidelines with respect to prosecutorial discretion. The federal guidelines are viewed as allocating greater discretion to the prosecutor than the judge, particularly because prosecutors can use the "cooperation" factor to mitigate the sentence.

Prosecutors believe they can make better decisions under a guidelines system because more information is gathered about the offender, such as criminal history.

While prosecutors and defense attorneys may criticize guidelines, they do not ignore them. There are different ways to exercise discretion but the worst way is to make decisions arbitrarily without regard to sentencing policy.

Mandatory minimums pose a major issue in structured sentencing states. These statutory mandates shift discretion to the prosecutor and away from the sentencing judge, and they often do not mix well with the proportionality scheme built into guideline policy. Mandatory drug policies have become a major point of contention in the development of Massachusetts sentencing guidelines; efforts are underway to construct a compromise that will keep the mandatory sentences but give judges some flexibility. The Minnesota County Attorneys Association has gone on record in opposition to mandatory minimums but this does not prevent individual county attorneys from supporting particular mandatory minimum bills.

#### **e. Parole Boards and Other Release Authority**

A panel of representatives from Pennsylvania, North Carolina and Utah, and a researcher discussed the role of release authorities in guideline systems.<sup>6</sup> Not all states with structured sentencing have abolished parole. What does it mean to retain release discretion in a guidelines system?

Pennsylvania has retained parole and provides wide baseline ranges in its guidelines. Judges are given discretion to determine the minimum and maximum while the parole board determines when the offender is to be released once the minimum is served. A presumption favors release once the minimum has been served but this is applied only to about 50% of offenders. About 10% serve the maximum; the remaining 40% somewhere in between. The percent of the minimum time served

has increased from 130% to 138% of the minimum. There continues to be support for Pennsylvania's parole system.

North Carolina abolished parole primarily because public confidence in the criminal justice system was so low. They believed a system to ensure truth in sentencing would help restore confidence and that it would be difficult to be truthful about time served if discretion to release was retained. Utah has a strong parole system. The judge decides the in/out question and the parole board has discretion when to release. Some exceptions were carved out by legislation for sex offenders but these were repealed after it was found that mandatory minimum sentences caused greater disparity due to prosecutorial discretion in plea negotiations. Utah set up lifetime parole for sex offenders, but they cannot be returned to prison without a new offense. Utah believes that parole discretion provides incentives for offenders to behave but public confidence sags when someone commits a crime while on parole.

States without parole do not appear to have experienced any adverse impact to date with respect to lack of control over inmates. But it appears important to retain supervision upon release and some "stick" to address inappropriate behavior in prison.

Predictability of prison populations is reduced when a parole board is in place because release practices can tighten up unexpectedly, particularly if an egregious crime by a parolee hits the headlines. Managing prison populations with a parole board is criticized because it reduces public confidence in the system.

#### **f. Appellate Courts**

Appellate review of sentencing decisions directly affects the distribution of discretion. This was demonstrated by representatives from Minnesota, Kansas, Delaware and the federal system.<sup>7</sup> Some Minnesota decisions served to emphasize sentencing guidelines policy and philosophy and put limits on departures. For example, facts must be admitted or proven before they can be used as reasons for departure, and limits are placed on how much additional time can be imposed on durational departures. Other decisions shift discretion to the trial court; e.g., judges may depart downward and not send someone to prison if they determine that the offender is amenable to probation, and imposition of a presumptive sentence is essentially unappealable. Some decisions shift discretion to prosecutors such as (1) allowing offenses sentenced on the same day to count as criminal history points for each subsequent offense, or (2) allowing the defendant to "waive the right" to be sentenced under the guidelines in a negotiated plea.

Kansas appellate courts initially spent much time dealing with retroactivity, which proved incredibly difficult because they not only implemented sentencing guidelines but also substantially changed their statutory definitions of crime. Judges were concerned that their discretion was diminishing greatly under guidelines because of appellate review. Under the old law, sentences could be appealed under the "abuse of discretion" standard. However, after four years under guidelines, appellate decisions have shifted discretion to the trial court and created a departure standard that is "substantial and compelling" for upward departures and "abuse of discretion" for downward departures. The ability to examine the offender's social factors is reappearing, just as in Minnesota.

The U.S. guidelines system tracks appellate decisions in a database. There are about 4,000 appeals each year, which is 10% of total cases. Two recent Supreme Court cases are of particular interest. The Melendez case gives enormous discretion to the prosecutor through the use of "substantial assistance." The prosecutor determines (1) whether this factor can be used for departure and (2) whether the departure can go below a mandatory minimum penalty. The latter decision is of special importance in drug cases to which high minimum penalties apply. The second case, Koon v. United States, appears to shift some discretion back to the trial court by ruling that the "abuse of discretion" standard is appropriate for challenging departures. However, no real change in practice has been observed yet in departure patterns or the decisions of appellate courts.

Delaware has no appellate review and believes that this works for them in part because they have relatively few trial court judges (30). There is informal pressure to stay within the guidelines and they have about an 85% compliance rate. Instituting appellate review might produce some benefits, such as more careful decisions and less control over the sentence by prosecutors through plea negotiations.

A question was raised as to whether sentencing guideline commissions should have standing to appeal when a judge's sentence conflicts with some aspect of the guidelines.

### **III. How Do We Maintain a Balance in Discretion?**

Three breakout groups looked at the question of how discretion can best be kept in balance to support the goals of structured sentencing, and how forces that might shift discretion can be managed.

#### **a. Political Pressures**

Sentencing Commissions were created by legislatures to be bodies of experts charged with developing rational sentencing policy in a setting driven by information and insulated from political pressures.<sup>8</sup> Somehow, things do not always work that way. Representatives from Arkansas, Minnesota, Oklahoma, North Carolina, and Massachusetts discussed their greatest political challenges, ranging from what to do about stiff mandatory minimum drug sentences to the threat each year of being abolished. When guidelines are the state's sentencing policy, they are likely to be blamed for the ills of the system.

There are some things commissions can do to prevent actions that throw discretion out of balance. Prosecutors need to be kept in check. They are a group that can easily create crisis. They understand that the sentence is what people look to when assessing the criminal justice system because it is highly visible. Increasing sentences is vulnerable to political whims because the costs are not felt for years. Prosecutors can gain political advantage by promoting "get tough" legislation. However, pressures can be placed on prosecutors to provide information on hidden charging and plea negotiation practices.

Commissions need to remain independent, support the goals of the guideline system, and remain outside partisan politics. However, in a democracy, political issues need to be taken into account.

Sometimes this means a commission needs to take a low-key role, doing most of its work behind the scenes, but sometimes taking a leadership role. It is the legislature's job to create good public policy and the commission's job to help the legislature accomplish this.

Commissions should not shy away from the media. They should be proactive, talk to reporters and editorial boards, and provide information. The media can help commissions explain complex issues to the public, such as how plea negotiations affect sentences and the importance of trade-offs when deciding who should be locked up in prisons.

### **b. Measuring Effects of Sentencing Policy on Crime**

Researchers discussed the problems of measuring how "get tough" sentencing policies affect crime.<sup>9</sup> For example, Florida has toughened its penalties extensively since 1994, measured by increases in incarceration rates, average time served and higher prison populations. But what have these policies done to impact public safety? It is important to be clear on what sentencing guidelines are trying to accomplish. Do they try to serve utilitarian purposes such as crime reduction and if so, are they successful? It is helpful to look at this question from a cost/benefit approach and examine specific crimes such as burglary. When comparing the cost of incarceration to the cost of burglary, do the sentencing policies provide a benefit equal to the cost or is the equation out of balance?

The literature on the effect of sentencing policies on crime suggests contradictory findings. It appears hard to keep ideology out of research. Commissions should conduct studies that look at the impact of their policies on crime and keep the different hypotheses alive for purposes of debate. Also, there are other reasons for guidelines besides utilitarian goals, such as proportionality and uniformity in sentencing.

The panelists recognized that there is no national definition of "recidivism" that allows states to compare themselves to one another. Comparisons are always difficult, especially when it is important to keep the presentation of data simple for policy making purposes.

### **c. Specialized Courts to Manage Caseloads**

Several states have established drug courts to help with the growing volume of drug cases. Rising caseloads can pressure practitioners to find creative ways to process cases. Sometimes they affect the balance of discretion. Drug courts tend to shift discretion to the judge and philosophically operate outside the goals of sentencing guidelines. It is important for states with guidelines to consider whether drug courts represent a paradigm focused more on health issues. Representatives from Delaware, Massachusetts, and Minnesota discussed their experiences with drug courts.<sup>10</sup> Delaware was the first state to implement a drug court with the hope that treatment could "break the cycle" for individual offenders. A study revealed that probation violators made up a large portion of the prison population and were often highly addicted. One focus of drug court is on these probation violators; they are required to participate in a long residential program with a lengthy period of aftercare. The other focus of drug court is diversion for first time offenders. Incarceration is used to spur cooperation with the treatment component. Sentences are indeterminate and do not

fit in the philosophy of the guidelines. The program operates statewide and has been fairly successful although success is difficult to define.

Minnesota has a drug court in its largest county, Hennepin, managed by one judge. The judge's philosophy controls the management of the court as well as its sentencing patterns. There is concern that if this judge leaves, the sentencing patterns could change dramatically. Sentencing guidelines are essentially ignored in drug court but judges in Hennepin county have been departing extensively from the guidelines in drug cases for some time anyway. The focus is on moving drug cases through the court quickly, with an emphasis on treatment and creative community sanctions. Since the establishment of drug court, there has been a huge increase in drug cases. The police are more motivated to bring in drug offenders because they are detained until they go to drug court. Previously, they were more likely to be released after booking until court dates could be set.

Massachusetts still has indeterminate sentencing and is still trying to get a guideline systems passed by the legislature. Drug cases are controlled by stiff mandatory minimum sentences which give the prosecutors a great deal of discretion. The proposed guidelines would give judges some discretion to depart from the mandatory sentences under certain circumstances. The state has an experimental drug court used as a pre-trial diversion; successful cases are dismissed. Defense attorneys must consider whether their client is motivated to get treatment; it is not in their best interests to go to drug court if failure in treatment is certain.

### **III. Other Plenary Sessions**

#### **a. Truth in Sentencing-What Does It Mean?**

The concept of "truth in sentencing" and what it means is a major issue for structured sentencing jurisdictions. However, a panel with representatives from Oklahoma and Minnesota and a researcher from RAND illustrated that there is no single definition of the concept.<sup>11</sup> In North Carolina, truth in sentencing involved the abolition of parole. Inmates must serve all the time they are given. Texas solved the truth in sentencing problem-they had been releasing prisoners almost as soon as they were admitted-by building many more prisons. Sentences remained the same but the percent of sentences served for violent offenders increased from 25% to 50%. Prison populations are growing from approximately 41,000 in 1989 to an expected 153,000 by the year 2000. Virginia abolished parole and established truth in sentencing by bringing sentence lengths down and requiring inmates to serve much higher percentages of the total sentence. The amount of time actually served by violent offenders increased but projections indicate only slightly less need for prisons by the year 2000 than would have likely been the case with the parole system.

Oklahoma is having difficulties passing structured sentencing legislation in part because of the ways different groups define "truth in sentencing." The law and order faction, which includes district attorneys, law enforcement and the governor, believe that 85% of existing sentences should be served in prison and that cost should not matter. Other factions, including some legislators and economists, believe cost is important and a balance of sanctions must be developed.



Minnesota, by abolishing parole and requiring offenders to serve 2/3 of their sentences, has had a system that supports truth in sentencing since 1980. However, even here, the question is whether plea agreements and prosecutorial discretion hide the truth. How do we get truth in the entire criminal justice system?

### **b. Research on Sentencing**

In another plenary session, a panel highlighted research questions and opportunities.<sup>12</sup> A partnership of NASC, the Conference of State Court Administrators, and the National Center for State Courts, funded by the National Institute of Justice, produced two excellent products. "Sentencing Commission Profiles" provides a concise overview of each state's structured sentencing system including grids and scoring worksheets. The "Sentencing Digest" draws on available research to address such issues as judicial discretion, truth in sentencing, disparity, intermediate sanctions, and cross-state comparisons. Some questions included (1) looking at whether states with sentencing guidelines are achieving their goals; (2) looking more closely at sentencing policies that adversely affect minorities; and (3) looking at how time served is changing in states with truth in sentencing.

### **c. Allocation of Sentencing Discretion and Its Effect of Disparity**

In the final plenary session, a panel of researchers looked at sentencing disparity and the difficulty of defining what it means and how to measure it.<sup>13</sup> It is difficult to know if data are indicating sentencing disparity, differential offending, or changes in offending and arrest patterns.

Sophisticated data are needed to look at these issues, especially in light of prosecutorial practices. Even with information on original charges it is difficult to evaluate evidence and witness problems. If disparity exists on the basis of legally relevant factors, the factors should be examined on their merits and questioned as to whether it continues to make sense to use such factors. The differentiation of sentencing on the basis of crack versus powder cocaine is an example of a legally relevant factor that results in disparity between black and white offenders, with blacks receiving harsher sentences because they are disproportionately convicted of crack cocaine offenses. Minnesota's Supreme Court ruled this differentiation unconstitutional under its state constitution because of the racial differences.

Sentencing commissions cannot solve all problems in criminal justice, but they need to be concerned about disparity. More work needs to be done to define disparity and determine whether it exists. Legally relevant factors that skew sentences by race, gender, or geography must continue to be questioned.

## **Conclusion**

The 1998 NASC Conference provided an opportunity for structured sentencing jurisdictions to discuss common problems and solutions. The organization has sustained itself through conference and membership fees. We are now looking for new support to ensure continuation of these conferences and creation of a library for sharing databases and reports.

## Notes

1 All sessions were tape-recorded but some parts were difficult to hear. I have summarized each session to the best of my ability.

2 The panel was chaired by John Steiger, Senior Forecaster, Washington Caseload Forecast Council, and included Jim Austin, Executive Vice President, National Council on Crime and Delinquency; Susan Katzenelson, Executive Director, North Carolina Sentencing and Policy Advisory Commission; Cynthia Kempinen, Deputy Director, Pennsylvania Commission on Sentencing; and John Stuart, State Public Defender, Minnesota.

3 The panel was chaired by Mark Bergstrom, Executive Director, Pennsylvania Commission on Sentencing, and included Judge Charles C. Brown, Jr., Member, Pennsylvania Commission on Sentencing, Judge Richard S. Gebelein, Chair, Delaware Sentencing Accountability Commission, Chief Judge Daniel H. Mabley, Fourth Judicial District Court, Minnesota; Judge Thomas W. Ross, Chair, North Carolina Sentencing and Policy Advisory Commission; and Judge Richard Walker, Chair, Kansas Sentencing Commission.

4 The panel was chaired by Paul O'Connell, Director, Oklahoma Criminal Justice Resource Center, and included Mark Carey, Director, Dakota County Community Corrections, Minnesota; Kathy Waters, Deputy Director, Oklahoma Department of Corrections, Division of Probation, Parole and Community Corrections; and Carl Wickland, Executive Director, American Probation and Parole Association.

5 The panel was chaired by Professor Kevin Reitz, University of Colorado School of Law and included Jane Haggerty, Assistant District Attorney and Member, Massachusetts Sentencing Commission; Robert Johnson, Anoka County Attorney, Minnesota; William Rhodes, Senior Scientist, Abt Associates Inc.; and Jenny Walker, Chief Public Defender, Tenth Judicial District and Member Minnesota Sentencing Guidelines Commission.

6 The panel was chaired by Ed McConkie, Director, Utah Sentencing Commission and included Mark Bergstrom, Pennsylvania Commission on Sentencing; Neal B. Kauder, Principal, Visual Research; and Judge Thomas Ross, North Carolina Sentencing and Policy Advisory Commission.

7 The panel was chaired by Professor Richard Frase, University of Minnesota Law School, and included Judge Richard Gebelein, Delaware Sentencing Accountability Commission; Judge Roger Klaphake, Minnesota Court of Appeals, and Minnesota Sentencing Guidelines Commission; Pamela Montgomery, Deputy General Counsel, U.S. Sentencing Commission; and Judge Richard Walker, Chair, Kansas Sentencing Commission.

8 The panel was chaired by Rob Lubitz, Director, North Carolina Governor's Crime Commission. Panel members included Jane Haggerty, Assistant District Attorney, and Member, Massachusetts Sentencing Commission; Tom Johnson, Incoming President, Minnesota Citizens Council on Crime and Justice; Leslie Powell, Executive Director, Arkansas Sentencing Commission; Judge Thomas Ross, North Carolina Sentencing and Policy Advisory Commission; and Dwayne Steidley, Chair, Oklahoma Sentencing Commission, Oklahoma House of Representatives.

9 The panel was chaired by Bill Bales, Bureau Chief, Florida Department of Corrections, and included Paul Hofer, Senior Research Associate, United States Sentencing Commission; Neil Kauder, Principal, Visual Research; and William Rhodes, Senior Scientist, Abt Associates Inc.

10 The panel was chaired by John P. O'Connell, Jr., Director, Delaware Statistical Analysis Center and included Judge Richard Gebelein, Delaware Sentencing Accountability Commission; Paul

Scoggin, Assistant Hennepin County Attorney, Minnesota; and Michael Traft, a defense attorney and Member, Massachusetts Sentencing Commission.

11 The panel was chaired by Judy Greene, Senior Fellow, Institute on Criminal Justice. Panel members included Dan Cain, Former Chair, Minnesota Sentencing Guidelines Commission, Executive Director, Eden Programs; Peter Greenwood, Director of Criminal Justice, RAND Corporation; and Tony Hutchinson, Senate Staff, Oklahoma State Legislature.

12 The panel was chaired by Jordan Leiter, National Institute of Justice and included Jim Austin, National Council on Crime and Delinquency; Peter Greenwood, RAND Corporation; and Neil Kauder, Visual Research.

13 The panel was chaired by Sandra Shane-DuBow, Sentencing Researcher, Illinois. Panel members included Paul Hofer, William Rhodes, and Professor Michael Smith, University of Wisconsin School of Law.

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