



Adult Sentencing and Release Determinations

A Philosophical Approach

Community Protection

Position 1: Public Safety

The first and foremost objective in the sentencing of offenders is to protect the public.

- (a) Risk to the public should be of paramount consideration at initial sentencing and in probation/parole deliberations.
- (b) All other positions taken herein are considered secondary.

Position 2: The Interests of Victims

Victims' interests, including safety, restitution, and participation should be given great emphasis at each stage of the criminal justice process.

- (a) Victim safety and peace of mind should be carefully considered prior to sentencing and before release if incarcerated.
- (b) As much as possible, victims should be fully informed and consulted as to their opinions and should be allowed to be heard at sentencing and Board of Pardons and Parole hearings if they desire.
- (c) Monetary restitution, or other forms of compensation to the victim, should be addressed in tailoring an offender's sentence and conditions of release.

Sentencing Options

Position 3: Individualized Sentences

Criminal punishment, including intermediate sanctions, should focus on the particular circumstances of each situation. The severity of an offense and the sentence rendered should be determined by actual harm done and the intent of the offender.

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Position 4: Visible Discretion

Appropriate visible discretion should be exercised by judges, the Board of Pardons and Parole, and other trained professionals at each stage of the sentencing process. Discretion should be based on articulable and reviewable criteria.

Position 5: Resource Sensitivity

Sentencing approaches should take into account, without being controlled by, available sanctioning resources and their relative cost-benefits.

Position 6: Continuum of Sanctions

Sentencing should incorporate a defined continuum of sanctions. Different sanctions should be applied depending on (a) the severity of the offense; (b) the risk the offender poses to the community; (c) the offender’s acceptance of responsibility for his crime; (d) restitution made; (e) potential for rehabilitation; (f) behavior while incarcerated; and (g) progress in treatment.

Position 7: Alternatives to Incarceration

In lieu of incarceration (defined in Position 9), alternative sanctions should be considered before an offender is sentenced.

Position 8: Self-Support and Restitution

Offenders should be required to pay victim restitution when applicable and pay the costs of their punishment, supervision, treatment, and other related costs whenever possible.

Prison Sentences and Commitments

Position 9: Serious Offenders

Prison commitments should be used primarily for three types of offenders: (a) felons who have committed more serious crimes; (b) felons whose criminal behavior cannot be controlled in less secure settings; and (c) felons whose behavior or criminal history merits incarceration.

Position 10: Length of Sentences and Commitments

Prison sentences and commitments may be short for situational offenders and long for repeat offenders.

Position 11: Mandatory Minimum Sentences

In furtherance of the Sentencing Commission's statutory mandate to "enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole..." (U.C.A. 63-25a-304(5)), mandatory minimum lengths of incarceration should not be legislatively imposed as they curtail the discretion needed by judges and the Board of Pardons and Parole.

Prison Release Criteria**Position 12: Community Protection**

In concert with Position 1 herein, when considering whether to release an offender from prison, the sentencing and release authorities' primary concern should be the risk that offender poses to the community, including the victim(s).

Position 13: Requisite Punishment

An offender who has been sentenced to prison should serve a term of punishment commensurate with the crime of commitment as determined by the sentencing and release authorities before being released.

Position 14: Indications of Possible Reform

The sentencing and release authorities should also consider; (a) the offender's genuine acceptance of responsibility for the crime and for future behavior; and (b) the offender's behavior during prison confinement, including involvement in educational, treatment, and improvement programming, meaningful and steady employment, and restitution payments.

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Post - Release Considerations

Position 15: Post-Release Supervision, Sanctions & Reintegration

Parole authorities and supervisors should use a variety of approaches to enhance an offender's chance of successful reintegration into the community.

- (a) A parolee should be subjected to a continuum of supervision levels depending on; (1) the risk the parolee poses to the community, including the victim; and (2) the parolee's behavior while on parole.
- (b) A spectrum of intermediate sanctions should be implemented while handling parole violations in order to protect the community, and where feasible, minimize unnecessarily returning parolees to prison.

Research and Recommendations

Position 16: On-going Research

A rigorous program of record-keeping and information analysis should be conducted on the effects of various sanctioning policies.

Position 17: Coordination

In order to assist the development of sound sentencing policy, all governmental agencies and private associations should coordinate with the Sentencing Commission regarding sentencing-related concerns.

Position 18: Sentencing Commission Recommendations

The Sentencing Commission may, when so requested or when it deems appropriate, make recommendations to all branches of government regarding present or potential policy and fiscal impacts of existing or proposed sentencing-related legislation and initiatives.

