

Sentencing Commissions 101



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Introduction

Starting in the mid-1970s in response to sentencing disparities, lack of accountability, and discretionary abuse across the nation, many states began adopting reforms and establishing commissions to examine sentencing practices.¹ In addition to the United States Sentencing Commission, there are twenty-five established and active state sentencing commissions as of 2023.² Although there could be variations in responsibilities, the majority of Sentencing Commissions aim to create, implement, and monitor sentencing guidelines.

What are Sentencing Guidelines?

At its simplest form, sentencing guidelines provide structure at the sentencing stage by defining offense and individual elements for consideration. This structure is typically in the form of a matrix or worksheet scoring system and produces a recommendation of a sentence or sentence range. These recommendations could include a period of incarceration, probation, or an alternative option. While no two state criminal justice systems and sentencing schemes are identical, there is alignment in the overall purpose of structured sentencing. These overarching goals³ may include:

- Increase sentencing fairness and consistency
- Reduce sentencing disparities
- Balance sentencing policy with limited correctional resources
- Establish truth in sentencing

National Review on Impact of Sentencing Commissions and Guidelines

The role and responsibilities of Sentencing Commissions may vary across each state given differences in statutory charges and jurisdictional oversight. By formally designating an official body to examine sentencing practices, utilize stakeholder expertise, and explore available data and research, appropriate policies and guidelines can be achieved to reach the desired goals as outlined above. A scan of the literature reveals a range of impacts that Sentencing Commissions and guidelines can make on the justice system at relevant sentencing decision making points:

- States that have implemented guidelines have reported high compliance rates⁴
- Guidelines have helped reduce sentencing disparity⁵
- Guidelines allowed more accurate projections and estimations of future custody and supervision populations to help policymakers address limited correctional resources⁶
- Sentencing Commissions play an imperative role in designing sentencing structure, monitoring and assessments of guidelines, identifying needed adjustments, and creating effective changes⁷



Utah's Sentencing Commission

For Utah, the State Legislature established the Utah Sentencing Commission in 1993. The Commission has the statutory responsibility to advise the Legislature, the Governor, and the Judicial Council regarding sentencing and release policy for adults and juveniles who have committed crimes.

The Commission is also responsible to develop sentencing guidelines for adults and juveniles who have been convicted or adjudicated. Currently, the Commission is led by a director and consists of twenty-eight statutorily delegated and appointed members representing all facets of the criminal justice system including judges, prosecutors, defense attorneys, legislators, victim representatives, law enforcement, treatment specialists, corrections, parole authorities, juvenile justice representatives, citizen representatives, and others.

Since its inception, Utah's Sentencing Commission⁸ has leveraged the diverse set of experiences from Commission members, utilized available research and data, incorporated evidence-based practices into policies, trained impacted stakeholders, met on an ongoing basis and funded the necessary staffing to successfully produce:

- Ten editions of Adult Sentencing and Release Guidelines
- Two editions of Juvenile Disposition Guidelines
- Annual Master Offense List
- A Collateral Consequences Guide

Further, during the legislative session and throughout the year, the Commission works with policymakers on legislation that relates to sentencing, release, supervision, creation of new crimes, and decriminalization of offenses. Specifically during the General Session, the Commission meets on a weekly basis to discuss and provide positions on potential sentencing related legislation. These positions are then communicated to the legislature as a means to provide information and support as well as to work together on any areas that may be of concern. Through collaborative working groups and presentations to the legislature, the Commission provides expertise, research, and resources to inform decision making.

Most recently, the Commission has overseen violent crimes, restitution, sex offenses, measuring recidivism, high value financial offenses, and child sexual exploitation offenses working groups. Each of these groups produced a final product that was either made into a bill for the 2023 General Session, incorporated into the 2023 sentencing guidelines, or in some instances both were accomplished.

Conclusion

Although a review of the literature indicates variance in sentencing structures and guidelines across the United States, there is consensus that reverting back to an era of unstructured and highly discretionary sentencing decision-making is unadvisable.⁹ However, the key to any successful implementation and monitoring impact of sentencing schemes is the role of Sentencing Commissions.¹⁰ As many states, including Utah, continue to experience the impact of incarceration and correctional staffing shortages, having an established group like the Sentencing Commission to help develop and maintain structured sentencing systems is a benefit and a tool for policymakers. Particularly for Utah, there are opportunities to further evaluate the impact of sentencing guidelines from a cost-benefit perspective by exploring projection models and evaluating estimations of future custody and supervision populations.

Endnotes

1. Wilhelm, D.F. (2015). Sentencing Policy in Tough Budget Times: What Are States Doing? Vera Institute of Justice
2. See Appendix A for full list and links to each respective sentencing commission
3. Austin, J., Jones, C., Renninger, P., & Kramer, J. (2004). National assessment of structured sentencing. Diane Publishing.
4. Ibid
5. U.S. Sentencing Commission. (1991). The Federal Sentencing Guidelines: A Report on the Operation of the Guidelines System and Short-Term Impacts on Disparity in Sentencing, Use of Incarceration, and Prosecutorial Discretion and Plea Bargaining. Washington, DC; Austin, J., Jones, C., Renninger, P., & Kramer, J. (2004). National assessment of structured sentencing. Diane Publishing.
6. Frase, R. S. (2019). Forty years of American sentencing guidelines: What have we learned?. *Crime and Justice*, 48(1), 79-135.
7. Ostrom, B. J., Ostrom, C. W., Hanson, R. A., & Kleiman, M. (2008). Assessing consistency and fairness in sentencing: A comparative study in three states. Williamsburg, VA: National Center for State Courts.
8. Utah Sentencing Commission. <https://justice.utah.gov/sentencing/>
9. Frase, R. S. (2019). Forty years of American sentencing guidelines: What have we learned?. *Crime and Justice*, 48(1), 79-135.
10. Ostrom, B. J., Ostrom, C. W., Hanson, R. A., & Kleiman, M. (2008). Assessing consistency and fairness in sentencing: A comparative study in three states. Williamsburg, VA: National Center for State Courts.



Appendix A: Sentencing Commissions

1. Alabama Sentencing Commission
2. Arkansas Sentencing Commission
3. Connecticut Sentencing Commission
4. Delaware Sentencing Accountability Commission
5. District of Columbia Sentencing Commission
6. Illinois Sentencing Policy Advisory Council
7. Kansas Sentencing Commission
8. Louisiana Sentencing Commission
9. Maryland State Commission on Criminal Sentencing Policy
10. Massachusetts Sentencing Commission
11. Michigan Criminal Justice Policy Commission
12. Minnesota Sentencing Guidelines Commission
13. Missouri Sentencing Advisory Commission
14. New Mexico Sentencing Commission
15. New York State Permanent Commission on Sentencing
16. Nevada Sentencing Commission
17. North Carolina Sentencing and Policy Advisory Commission
18. Ohio Criminal Sentencing Commission
19. Oregon Criminal Justice Commission
20. Pennsylvania Commission on Sentencing
21. Utah Sentencing Commission
22. Virginia Criminal Sentencing Commission
23. Washington State Sentencing Guidelines Commission
24. West Virginia Sentencing Commission
25. United States Sentencing Commission
26. National Association of Sentencing Commissions