

Discretion in Sentencing

Indeterminate sentencing was harshly criticized for allowing too much judicial discretion, which in part resulted in unequal sentences being handed out. In addition, it was criticized for parole board discretion, which in part resulted in radically different sentence lengths being served. Structured sentencing removed much judicial discretion and in most cases abolished parole boards altogether.

A result of structured sentencing has been prison overcrowding at great expense to the taxpayer. Today, the United States has more people incarcerated than any other country—even countries much more populous than our own. Some states are now backing off of some elements of structured sentencing as a result of the costs associated with it.

As a policymaker, what policies would you implement that follow the three essential concepts of punishment (proportionality, equity, and social debt) as well as the five goals of sentencing (retribution, incapacitation, deterrence, rehabilitation, and restoration)?

Think About It

1. **Would your policies be overly costly to taxpayers?**
2. **Would your policies require statutory or constitutional changes?**
3. **What do you think would be the outcome of the policies you recommend?**
4. **Would your policies affect a particular segment of the population more than others?**