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Research in Brief

Evaluation of North Carolina's Structured Sentencing Law

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Evaluation of North Carolina's Structured Sentencing Law: Summary of Findings

This document summarizes the results of a National Institute of Justice sponsored study that evaluated the effects of a 1994 legislated sentencing reform in North Carolina. A comprehensive final report is also available.¹

Background

Sentencing reforms have proliferated in the United States since the 1970s. These changes have been prompted by a variety of factors: dissatisfaction with the rehabilitative goals of indeterminate sentencing, disparities in sentencing practices, beliefs that the disparities between incarceration sentences given and actual time served was excessive (truth in sentencing), hopes that reform would elevate public safety effects, and concerns about the levels and types of correctional resources that must be expended to implement sentences given by the courts. Most of the recent changes have involved the implementation of sentencing guidelines or structured sentencing developed under State statutes. Sentencing guidelines typically involve the specification of "presumptive" sentences that guide judges' sentencing decisions. The presumptive sentence depends on the type of offense an individual has been convicted of and his or her previous conviction record. The presumptive sentence can be "enhanced" or "mitigated" based on factors related to the case. If there is a single hallmark of sentencing guidelines, it is that it has shaped and reduced judicial sentencing discretion.

Recent evaluations of sentencing reforms typically have found that although the new laws do modify sentencing practices, the effects are usually less than anticipated. Plea negotiations continue to be the predominant way of disposing of cases, and judicial sentencing discretion is reduced by sentencing guidelines (but most effects are muted). The adjudication system continues to emphasize the efficient disposition of cases, and local courtroom workgroups collaborate to ensure this result. The existing sentencing reform evaluation literature is also

¹Collins, J.J., Spencer, D.L., Dunteman, G.H., Gogan, H.C., Siegel, P.H., Lessler, B.A., Parker, K., & Sutton, T. (1999, September). Evaluation of North Carolina's structured sentencing law: Draft final report (National Institute of Justice Grant No. 96-CE-VX-0013; RTI/6780/DR). Research Triangle Park, NC: Research Triangle Institute.

somewhat inconsistent. Findings usually indicate that sentencing disparities are reduced by sentencing guidelines, but other effects have been found inconsistently.

The existing sentencing evaluation literature has not paid sufficient attention to the *system impacts* of sentencing reforms, and this was the major focus of the study we conducted in North Carolina. Our study examined multiple aspects of the adjudication process by analyzing case data provided by North Carolina's Administrative Office of the Courts (AOC) for the prestructured sentencing (i.e., fair sentencing) and structured sentencing time periods, and by interviewing individuals in key adjudication roles in three judicial districts in North Carolina. We compared charging practices, case dismissal and jury trial rates, plea negotiations, and case processing time for a large number of cases, and we collected qualitative information on the same factors from judges, district attorneys, defense attorneys, and court clerks.

North Carolina's Structured Sentencing Law

The North Carolina Sentencing and Policy Advisory Commission was created in 1990 to make recommendations regarding State criminal sentencing policies. In 1993, the General Assembly reviewed recommendations made by the Commission and adopted the structured sentencing law, which applies to all felony and misdemeanor crimes (except for driving while impaired [DWI]) committed on or after October 1, 1994. Structured sentencing represented a new way of sentencing offenders in North Carolina. Judges are provided with specific sentencing options for the type and length of sentence that may be imposed, derived from calculations of the severity of the crime and on the extent of previous criminal records (the presumptive sentence). The new law also eliminated parole and set priorities for the use of correctional resources.

Three types of punishments are stipulated under the new law: (1) active punishments (prison or jail), (2) intermediate punishments, and (3) community punishments. For *active punishments*, felons and misdemeanants with more than 3-month sentences are incarcerated in State prisons, and misdemeanants with fewer than 3 months of active time are placed in county jails. *Intermediate punishments* require that offenders be placed on probation and also that they be restricted in a boot camp, by split sentence, a day reporting center, or other special conditions. *Community punishments* may include fines, restitution, treatment, or community service. Crimes are classified into letter classes ranging from Offense Class A through Class I.

Crimes that involve injuries or risks of injuries to victims are in the highest categories, while property crimes are in the lower ones. Misdemeanors are classified into a descending hierarchy of four classes. There are six levels of classifications for prior records for felons. The highest levels are used for felons with violent or extensive prior records. Misdemeanors are classified into three prior conviction levels.

Judges must impose active punishments for felons convicted of crimes that are in the high offense categories or who have high prior record levels. They must impose intermediate or community sanctions for those who are in the low categories, and they can choose either an intermediate or active punishment for those who fall in between. Options for increasing or decreasing the “presumptive” sentence based on aggravating or mitigating factors are also specified. In studies conducted after the new law became effective, the North Carolina Sentencing and Policy Advisory Commission determined that the goals of the new law were largely being met.

Effects of Structured Sentencing on the Adjudication Process

Table 1 summarizes our findings from the analysis of AOC data. Structured sentencing did not bring about major changes in the aspects of the adjudication that we examined. We observed a slight increase in the percentage of misdemeanor defendants with multiple charges (1.1%) and in the percentage of multiple-charge felony defendants charged with both felony and misdemeanor offenses. A comparison of dismissals for the prestructured sentencing and structured sentencing time periods indicated that the rate of dismissal among misdemeanor defendants was 4% to 5% higher under structured sentencing, and about 2% higher for felony defendants. The predominant (although not unanimous) view of those we interviewed regarding charging practices and case dismissal was that there were no changes in charging practices or dismissals under structured sentencing, indicating a disparity between their views and the empirical data.

The results from our AOC analyses suggest a small increase in the percentage of structured sentencing defendant episodes resulting in negotiated pleas. For instance, multiple-charge convicted felony defendants in the structured sentencing sample were more likely than those in the felony prestructured sentencing sample to have a reduction in the number of offenses

Table 1 Summary of Changes Observed Among Structured Sentencing Defendants

Outcome	Misdemeanor Defendants	Felony Defendants
<u>Charges</u>		
% with Multiple Charges	1.1% increase	<1% decrease
% with Misdemeanor Charge(s) Only	<1% decrease	not applicable
% with at Least One Felony Charge	not applicable	<1% increase
% with Both Felony and Misdemeanor Charges	not applicable	1.7% increase (multiple-charge defendants only)
<u>Dismissals</u>		
% Resulting in Dismissal	5.2% to 5.6% increase	<1% to 2.2% increase
<u>Plea Negotiation</u>		
% with Reduction in Number of Offenses Between Charges and Conviction(s)	4.7% increase (multiple-charge defendants only)	2.2% increase (multiple-charge defendants only)
% with Reduction in Offense Class Between Charge(s) and Conviction(s)	not analyzed	2.1% to 4.6% increase
% with Reduction in Offense Class by 3+ Classes	not analyzed	<1% to 4.3% increase
<u>Jury Trials</u>		
% Going to Trial for at Least One Offense	not analyzed	<1% increase
<u>Adjudication Time (in Days)</u>	10 to 13 day increase	7 to 11 day increase

between their charges and conviction(s) (76.5% vs. 74.3%) and more likely to have a reduction in offense class between their charges and conviction(s) (55.5% vs. 50.9%). An increase in offense class reduction was evident even in the reduction category of three or more classes. Most of the court personnel we interviewed either noted an increase in plea negotiations or said that they had observed no change in the frequency of negotiated pleas. It is possible that because sentencing outcomes are more predictable under structured sentencing guidelines, defendants being adjudicated under the new law may be more willing to accept a negotiated plea because it is

clearer what their sentence will be. This may be the case particularly in situations where it is certain that a defendant will not serve prison time with a guilty plea.

There was agreement between the perceptions of the interviewees and the AOC data for jury trials. The AOC data showed very similar jury trial rates (approximately 2%) for prestructured sentencing and structured sentencing defendants, and the respondents thought little had changed regarding this disposition mode. Several working in the adjudication process recognized that the system can handle only a small percentage of cases by the jury trial method, and it appears that the system's resources are utilized to ensure that most cases are settled in ways that require less time and resources.

The court data showed clearly that the time required to adjudicate defendants under structured sentencing was 7 to 13 days longer than under the previous law. Here, too, there was a difference between what the empirical data showed and what the respondents said was the case. Whereas some of the respondents noted an increase in adjudication time (due to new and additional paperwork), others reported a decrease (pointing to a reduction in the time required to make sentencing decisions), while others indicated that they had observed no change in the time it takes to process a defendant. It is likely that at least some of the increased adjudication time that we observed in the AOC data is attributable to delays from learning the new procedures associated with structured sentencing that was required when the new law was first being implemented.

Structured Sentencing and Prison Infractions

North Carolina's structured sentencing law modified the incentives for prison inmates to follow institutional rules by reducing an inmate's capacity to earn sentencing reductions for good behavior. Moreover, empirical and anecdotal evidence from North Carolina's Department of Correction (DOC) suggested that inmates serving sentences under structured sentencing were in fact committing institutional infractions at a higher rate than inmates serving sentencing under the previous law. To examine the relationship between structured sentencing and institutional infractions, we analyzed data provided by the DOC using Poisson regression techniques. The analyses were conducted separately for males and females, and a group of 12 control variables (individual characteristics, current offense, criminal history, previous incarceration, and history of prison infractions) were included in the regression models.

Key findings indicated that in comparison to inmates sentenced under the previous law, inmates sentenced under structured sentencing had the following characteristics and rates:

- They had higher overall infraction rates—25% higher for males and 55% higher for females.
- Their assault infraction rate was about one-third higher for both sexes.
- Male inmates sentenced in the most serious crime category had higher overall and assault infraction rates, and the assault infraction rates for females in the most serious crime category was significantly higher.
- Prior time served had a direct effect on the infraction rate for both sexes in most infraction categories.
- Age was inversely related to infractions in that, as age increased, the likelihood of involvement in infractions decreased.
- For males, there was no difference in the overall infraction rates for blacks and whites, but black males had a higher assault infraction rate, and black females had higher overall and assault infraction rates.
- Longer expected time to be served was associated with lower infraction rates for both males and females.
- Having a prior record of infractions during a previous incarceration was significantly associated with infractions during the current incarceration for both sexes.

It is clear that, at least in the early years of structured sentencing, inmates sentenced under the new law pose more difficult prison management challenges than do inmates sentenced under the previous law.

Implications

Our study's findings with regard to the effects of sentencing reform on the adjudication process are consistent with most previous work in several respects. First, claims made about probable major impacts of new sentencing laws during legislative debate leading up to passage of new laws typically overstate the effects that can be expected to occur. Sentencing reform results in real change, but the pressing need to move cases through local systems appears to dampen the impact of new legislation. The primary demands made on local systems are to process cases that

are presented. Local court workgroups are organized to accomplish this goal. Some of the interviews we conducted with those who work in the adjudication process highlight the primary importance of efficient case processing. In the discussions we had, several individuals noted the importance of efficient case processing to the system.

To ensure that State-initiated sentencing reforms will be implemented as planned requires that attention be paid to *local* operational realities, including local workloads and court workgroups. Local decision makers with responsibilities for implementing sentencing reforms should be involved in deliberations about change and in the formulation of legislation to affect change. After reforms are legislated, continuing attention should be paid to local situations to ensure implementation is occurring in the ways intended, and that problems of implementation are being addressed. The initial implementation of sentencing reforms should also be monitored to assess whether intended changes are occurring. If they are not, initiatives to identify why and to institute corrective actions will likely be required.

This report's analysis of the effects of structured sentencing on the involvement of inmates in infractions demonstrates how legislative initiatives that modify behavioral incentives can have an impact on inmate behavior. The structured sentencing law implemented in North Carolina made the management of the State's prisons more difficult and more costly. The results of our analysis provided some information that, when used in combination with prison management and housing practices, might have a positive impact on the safety and orderliness of the State's correctional institutions.

Certain classes of inmates were much more likely to be involved in infractions, indicating that risk profiling can provide direction to inmate management approaches. Inmates with a risk factor profile indicating a relatively strong likelihood of committing infractions could be monitored more closely than those without such a profile. They also could be housed together in order to make the monitoring more efficient. Because the risk factors are more predictive of infractions for females than for males, monitoring females with a high infraction rate risk factor profile more closely could pay even higher dividends.

Risk factor analysis might also be initiated at an aggregate level. As the distribution of risk factors changes through time, corresponding changes in the infraction rates can be expected. For example, if the prison population, on the average, becomes younger with a higher percentage of inmates who have been incarcerated previously, and a higher percentage of those sentenced for

the most serious crimes, we can expect corresponding increases in infraction rates. Prison management practices might be used to attempt to modify the prevalence of infractions, such as by refining inmate classification and security assignment approaches and promising more favorable housing and job assignments for inmates who avoid infractions.

Another important implication of the infractions analysis is that as the proportion of inmates sentenced under structured sentencing increases over time, which will occur inexorably unless the law is changed, the behavior management problems of the system will likely grow. Of course, it is possible that the system can adapt successfully by modifying its practices to manage inmate behavior more effectively. But barring more effective methods of dealing with infractions, North Carolina's prisons face major challenges when a larger proportion of its charges are incarcerated under structured sentencing.

It is clear from the findings in this report that modifications in sentencing can have far-reaching implications for prisons. It has been clearly demonstrated by other research that sentencing policies and practices have major impacts on the size of correctional populations. But the features of sentencing can also affect inmates' behavior while incarcerated, making the management of prisons more difficult and more costly. Future legislation should consider these effects as well as those impacting the need for bed space. The orderliness and safety of the prison environment can have negative consequences that may be every bit as serious as overcrowding.

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