Sentencing

What happens after a defendant is convicted of a crime

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Sentence Basics

- Basic definition
- Laws guide sentencing. Judges must use sentencing laws when they pass a sentence.
  -Sentencing laws are created by our elected officials. They can (and do) change with political pressure.
- Costs and Benefits to any social policy

"Goals" of Sentencing

- Retribution
  -retribution vs. revenge or vengeance
- Incapacitation
- Deterrence
  -Specific and General Deterrence
- Rehabilitation
- Restoration

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Sentences are Socially Constructed

- Criminal sentences Judges can give are determined by laws – they don’t make them up!
- Sentencing laws are made by legislatures
- Legislatures are humans elected via the political process
- Political views change over time!!!
- Thus sentences are socially constructed

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Basic Sentencing Options

- Fines – monetary payment
- Imprisonment – “locked up”
- Probation – “restricted release”
- Death Penalty – “state sponsored execution”

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Fines

- Various Supreme Court rulings
  -can’t be held over max sentence just to pay fine
  -fines and jail decision can’t be based upon “ability to pay”
  -can’t revoke probation due to inability to pay fine
- “Day Fines”
Incarceration Sentences

- Indeterminate Sentencing
  - allows for some discretion
  - judge sets min. and max. (i.e. 2-4 years)
- Determinate Sentencing
  - no discretion in terms of min. time
  - sometimes parole is allowed
  - “Mandatory Minimums”
- Definite Sentencing
  - same as determinate but no possibility of parole
  - true “flat” or fixed” sentence like “3 strikes & yer out”

The Sentencing Process

- At Sentencing Hearing Judge typically hears “pre-sentence report” and from defendant
- Concurrent vs. Consecutive Sentences