

# Assessing Consistency & Fairness in Sentencing:

## A Comparative Study in Three States



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# What is the research goal?

*Examining consistency in sentencing across 3 alternative sentencing guideline schemes: Michigan, Minnesota & Virginia*

- Consistency can be defined:
  - Making sentences proportionate with the seriousness of the offense
  - Increasing certainty and predictability
  - Reducing disparity (racial discrimination is not the focus)

# Why these 3 states?

**These states represent 3 distinct approaches to structuring judicial discretion**

- Well-respected systems
- Alternative design strategies
- Voluntary and presumptive
- Data is more readily obtainable

**Minnesota:** presumptive, determinate, and smaller ranges

**Michigan:** presumptive, indeterminate, and larger ranges

**Virginia:** voluntary and larger ranges

# What is the study approach & what type of data analysis is used?

*Empirical assessment of consistency in sentencing and how it relates to alternative sentencing guideline structures*

## Data analysis

- Multivariate statistical analysis (various techniques)
- Interviews with select criminal justice practitioners
- Review and comment by VCSC commission and staff

# What policy questions can answered?

How does consistency change within states when moving through the mandatory voluntary spectrum?

Is enhanced consistency an advantage of presumptive guidelines versus voluntary guidelines?

How are states responding to *Blakely* et al?

For VA policymakers, do we see more or less consistency compared to other system types?

What do VA policymakers see as the particular advantages and/or disadvantages of the Virginia system?

# How do presumptive or voluntary systems relate to ability to achieve goals of sentencing?

- Sentencing consistency (disparity): compliance rates
- Resource management: incarceration rates and prison costs
- Appellate review
- Response to Blakely, Booker and Fanfan

# What about the *Blakely* case specifically?

*Strong interest in clarifying impact on different sentencing systems*

Are states with tight ranges and mandatory systems most at risk?

- Minnesota: required imposition of recommended sentence within tight range
- Michigan: hybrid system (presumptive, indeterminate) very wide ranges, 250+ grid cells (compared to 60 for MN).  
Commission abolished by legislature, no monitoring
- Virginia – largest ranges, voluntary system, judges not required to impose recommended sentence

# What is the current project status?

- Databases are assembled for all 3 states
- Statistical analysis is ongoing, VA was most recently added
- Literature review underway
- Interviews to be scheduled in spring



# Michigan

The guidelines in Michigan have three explicit goals:

- 1) increase consistency so similarly situated offenders receive similar sentences
- 2) eliminate discrimination in sentencing outcomes
- 3) provide a platform for forecasting the number of offenders that will be coming into prison each year.

# Michigan - sample results

*Major finding: Local legal culture (LLC) appears to have greatest impact on sentence variation.*

- Michigan has relatively large sentencing ranges – making it possible for LLC to have larger impact
- Where you are sentenced plays a significant role in the sentencing outcome

# Michigan – more sample results

- Using Circuit 3 (Detroit) as a baseline
  - 21 other circuits had significantly higher rate of imprisonment;  
7 circuits had significantly lower rate of imprisonment
  - 33 of the circuits increase the sentence by 25% or more; only one court has a lower length of incarceration
- Out-state offenders more likely to get prison and, if so, for longer times, differences are not due to offense and offender factors

*Results show that different sentences can be given while still complying with the guidelines.*

# What is the final product?

## Products

- Final report: useful to policymakers and practitioners when addressing issues of consistency & SG design
  - Purpose, structure, and mechanics of guidelines
  - Compare/contrast presumptive v. voluntary systems
  - Response to recent US Supreme Court decisions
  - Role of Sentencing Commission

## Continue VCSC-NCSC evaluation partnership

- Truth-in-Sentencing
- Nonviolent Offender Risk Assessment
- Sentencing Profiles and Sentencing Digest