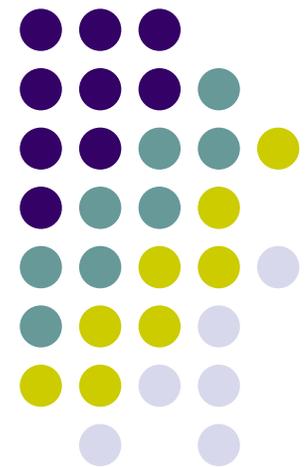


Policy Shaping: Sentencing Information Exchange

Plenary Session I – NASC 2006

Miller, Wright, Chanenson,
Hutton & Tata



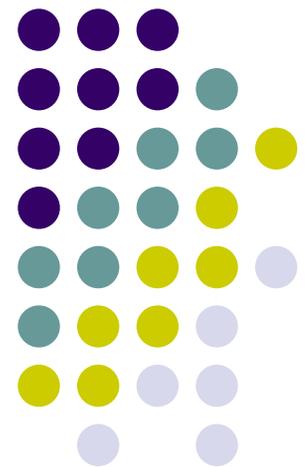
Users and Uses of Sentencing Data

Steve Chanenson

Marc Miller

Ron Wright

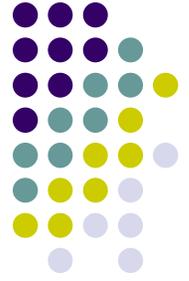
NASC Annual Conference, August 2006





Generations of Data Usage

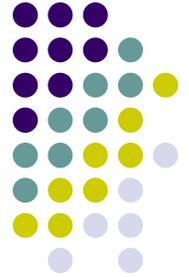
- First generation uses of sentencing data
 - Who are the *users*?
 - What are the *uses*?
- **Question #1:** Which players in the criminal justice system could benefit most from a second generation model of sentencing information?



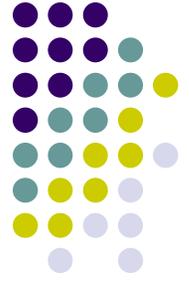
Response #1

- First missing use:
 - Data for use at the case level, in individual sentencing decisions.
 - In the next generation, judges, prosecutors, defense attorneys, probation officers and others would also be users.
- Second missing use:
 - System-level data for use in jurisdictions other than the home state of the commission that collects the data.

Case-Level Uses of Sentencing Data



- **Question #2:** How would a case-level Sentencing Information System (SIS) work, in broad outline?
 - Who would design it?
 - How would it relate to existing guidelines?
 - How would it work?



Response #2

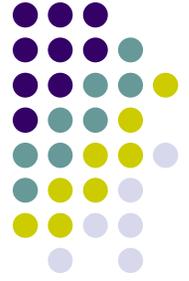
An SIS would answer sentencing judge's most fundamental questions:

- What have other judges done in cases involving similar crimes?
- What have other judges done in cases involving similar offenders?
- Does experience tell me what will happen if I sentence this person to prison? A treatment program?

National Sharing of State Data



- **Question #3:** How might the next generation sentencing information model make it easier for users in one jurisdiction to draw on experiences in another jurisdiction?



Response #3

- Limited incentives for individual states to maximize positive externality of comparable or transferable knowledge.
 - Lone laboratories (Justice Brandeis).
- Thus, a need for a central coordinating body.
 - In some settings, this becomes a federal government function.
- What about NASC as the coordinating body?



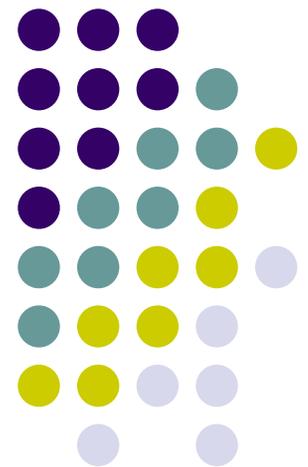
Help Plan the Next Step.

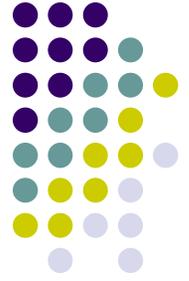
- Share your ideas and experience.
- Please join us at 10:30 a.m. for the **Sentencing Information Exchange** break-out session.



The Scottish High Court Sentencing Information System

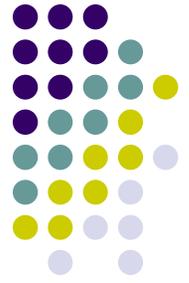
Professor Neil Hutton
Centre for Sentencing Research
University of Strathclyde





In the beginning.....

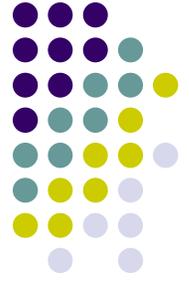
- 1993 Lord Ross and the NSW System
- Secretary of State Forsyth and the threat of guidelines?



Background

- Common law jurisdiction. No criminal or penal code.
- Very wide offence definitions eg assault.
- Strong tradition of judicial independence.
- No tradition of sentencing guidelines.
- Appeal Court deferential to first instance sentencing.

Aims and purposes of the SIS

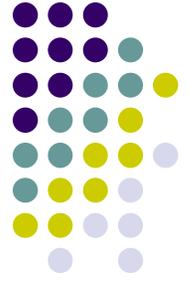


- Access to past decisions of the High Court.
- Flexible approach.
- Easy to use.
- Enables attention to consistency to be combined with individualised sentencing.
- Preserves judicial discretion.
- Underpinning theory based on Whole Case narratives rather than Independent Factorial analysis.
- Descriptive not Normative.

Development of the Project



- Three stages over ten years.
- Worked closely with judges on taxonomy.
- Implemented in 2002.
- Clerks provided with software to continuously update the system.
- Judges have the facility to enter text to explain their decisions.



The Present

- SIS has atrophied.
- Lack of an institutional home.
- No need for judges to use the system.
- Sentencing Commission for Scotland.



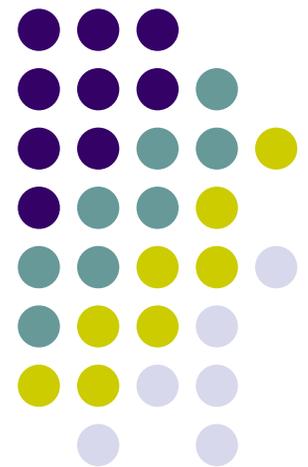
The Future

- An institutional home.
- Provision of sentencing information to the public: Transparency.
- Supporting the development of sentencing guidelines.
- Monitoring the use of the guidelines.
- Predicting future sentencing patterns and demands on correctional resources.

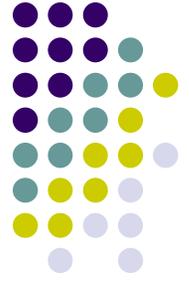


The Next Generation of Sentencing Information?

Professor Cyrus Tata
Centre for Sentencing Research
University of Strathclyde



So why has failure been so commonplace?

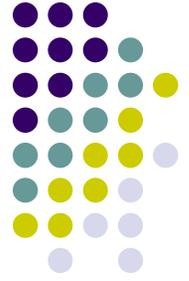


- Various lab AI/ 'Expert System' prototypes (not SIS but SES).
- Canada.
- Home Office in E&W.



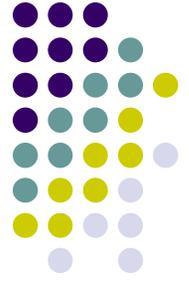
Avoidance of failure.

- Fundamentally not IT issues.
- Meaningful taxonomy of Case Similarities.
- Gravity.
- Criminal History.
- Seriousness of whole case.



Avoidance of failure.

- Judicial Support.
- Leadership.
- Commitment of time, research & energy.



Other potential features.

- Links to :
 - Sentencing Law.
 - CCA Judgments & Commentaries.
 - Info on availability of non-custodial options.
 - The 'effects' of different programs.

