

CONNECTICUT SENTENCING COMMISSION

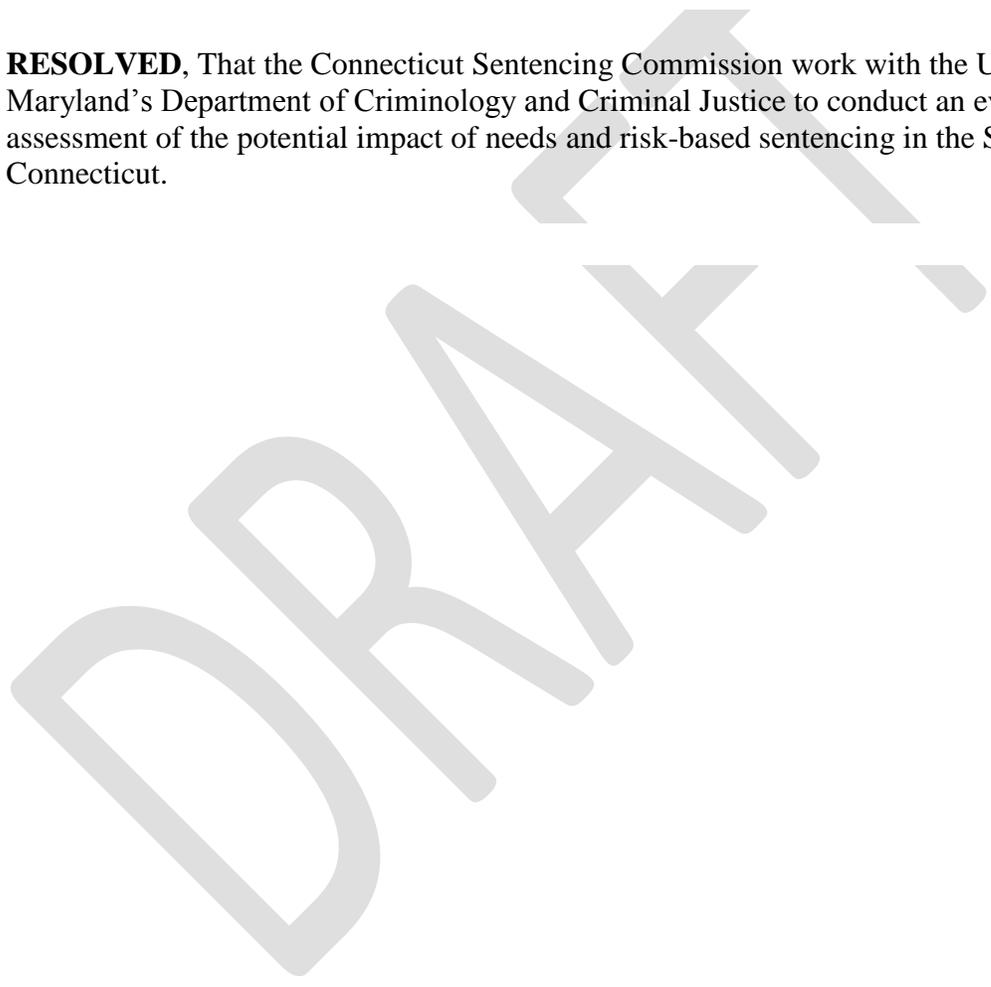
No. 2016-01

Proposed Resolution Regarding an Evaluation of the Impact of Risk and Needs Based Sentencing in Connecticut

Resolution

1 **RESOLVED**, That the Connecticut Sentencing Commission work with the University of
2 Maryland’s Department of Criminology and Criminal Justice to conduct an evidence based
3 assessment of the potential impact of needs and risk-based sentencing in the State of
4 Connecticut.

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THIS DOCUMENT IS A DRAFT AND DOES NOT REFLECT THE OFFICIAL POSITION OF THE CONNECTICUT SENTENCING COMMISSION.

Report

See attached University of Maryland research proposal dated December 1, 2015.

DRAFT



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December 1, 2015

RE: Research Proposal for Evidence-Based Sentencing Study

Dear Commissioners:

Please find enclosed our final research proposal for an evidence-based assessment of sentencing practices in Connecticut. Our goal is to assist the Connecticut Sentencing Commission in evaluating the potential impact of needs and risk-based sentencing in the state while also providing a meaningful foundation for future dissertation research on the topic. We have been involved in similar, ongoing efforts to consider risk-based sentencing in Maryland and we share the Commission's views on the importance of evaluating these types of policy innovations.

One primary investigator is an established scholar in the field of empirical sentencing research who has published more than two dozen studies in top peer-reviewed journals across a variety of topics related to sentencing. Much of this work has been funded by external agencies, such as the National Science Foundation and the National Institute of Justice. He has considerable experience conducting sophisticated statistical analyses of large sentencing datasets, writing grant reports and publishing academic papers. He is also currently serving as the Criminal Justice Policy Expert on the State Commission on Criminal Sentencing Policy in Maryland – an organization that is also involved in evaluating risk and needs assessments in sentencing. The second primary investigator is a fourth-year doctoral student in the Department of Criminology and Criminal Justice at the University of Maryland. She is one of the most outstanding graduate students in the department. She has presented her scholarly work at prestigious conferences such as the American Society of Criminology and is interested in the Connecticut Sentencing Commission data for her dissertation.

Below we outline our proposed research plan for evaluating the potential impact of evidence-based practices on both sentencing and post-release outcomes, followed by our curricula vitae and a sample of three published works. Our plan includes the selection and cleaning of appropriate cases for analysis, the building of a unified dataset to study sentencing and recidivism outcomes, and a broad range of applicable statistical analyses to assess the impact of risk and needs based approaches to sentencing policy in the state. We look forward to a productive and mutually-beneficial partnership with the Commission. Please feel free to contact us directly with any questions or concerns.

Sincerely,

Brian D. Johnson
Associate Professor of Criminology and Criminal Justice

Rebecca Richardson
Doctoral Student in Criminology and Criminal Justice

James P. Lynch
Professor and Chair of the Department of
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Background on Evidence-Based Sentencing

Evidence-based sentencing uses actuarial assessments to help inform sentencing decisions. Actuarial assessment has been defined as the application of “an objective, mechanistic, reproducible combination of predictive factors, selected and validated through empirical research,” and applied to key “outcomes that have also been quantified” (Heilbrun, 2009: 133). Actuarial risk assessments in the criminal justice system have been variously used to identify low-risk offenders, good candidates for particular programs, and those at high risk of future violent offending (Cullen & Gendreau, 2000). These assessments often contain a variety of risk, protective, and needs factors, both static and dynamic, that have been shown to influence offender risk and future recidivism. The Level of Service Inventory- Revised (LSI-R) is the most popular prediction instrument in use among states that have not adopted their own state-specific instruments. Risk assessment tools have been primarily applied to criminal justice decisions that fall outside the purview of sentencing decisions (e.g. parole decisions), though select states like Virginia, Pennsylvania, Missouri, and Utah have begun to integrate risk assessments into sentencing.

Criminal sentencing involves a broad range of punishment goals that include retribution, deterrence, incapacitation, rehabilitation, community protection and restoration (von Hirsch, 1976). The primary aim of evidence-based sentencing is to assist judges in delivering the most appropriate sentences to the most suitable offenders as they address some of these goals (Monahan & Skeem, 2015). In particular, risk assessments can be useful for effectively identifying a) which offenders can be given non-custodial sentences without compromising public safety and b) which offenders are at the highest risk of future recidivism (Hyatt et al., 2011). Needs assessments can also be useful for identifying offenders who are well-suited to rehabilitation or restorative justice programming. This is important because the effective use of incarceration, community punishments and alternative sanctions helps to maximize public resources. The use of risk assessments may also appeal to citizens because it fosters transparency, emphasizes objectivity, and is scientifically validated prior to implementation (Hyatt et al., 2011; Van Nostrand & Lowenkamp, 2013). On the other hand, some critics have expressed concerns about the constitutionality of risk assessments (Starr, 2014a, 2014b), the potential for exacerbated social inequality (Monahan & Skeem, 2015), “statistical discrimination” and large margins of error (Hart et al., 2007; Cooke & Michie, 2010), and the possibility of high rates of false positives and false negatives (Berk et al., 2009; Berk & Bleich, 2014).

The available empirical evidence suggests that actuarial assessments can serve as valuable predictive tools for judges during the sentencing process (see Andrews et al., 2006; Latessa & Lovins, 2010; Skeem & Monahan, 2011; Pew Center on the States, 2011; Casey et al., 2014). Starr (2014a), however, notes that most of the empirical evidence on risk prediction does not address the effect of risk assessments at sentencing. Identifying high-risk and/or low-risk offenders has utility if it can be used to improve sentencing decisions in ways that reduce future offending and improve community safety. It is thus important to examine the extent to which the use of risk and needs assessment can assist judges in identifying those offenders who are most at risk of serious and violent reoffending. The aims of the Connecticut Sentencing Commission appear to be in alignment with this line of reasoning; the proposed project therefore focuses on differential outcomes between actual sentences and evidence-based sentencing, on the predictive ability of risk/needs assessment tools in sentencing, and on the long-term potential to improve fairness and effectiveness in criminal sentencing policy through the implementation of evidence-based sentencing approaches.

Summary of Investigators' Qualifications

The primary investigators for this project are Dr. Brian D. Johnson and Rebecca Richardson. Dr. Johnson has been conducting empirical research on sentencing for more than a decade. He has published dozens of articles on various aspects of criminal sentencing policy, including racial and ethnic disparities, contextual variations in punishment, and the use of advanced statistical techniques to better understand decision-making processes among members of the courtroom workgroup. Dr. Johnson was recently appointed to serve as the Criminal Justice Policy Expert on the Maryland State Commission on Criminal Sentencing Policy. Prior to that he served as a consult with the Maryland Data Analysis Center (MDAC) working on a preliminary assessment of risk and needs based sentencing in Maryland. Rebecca Richardson is a fourth-year doctoral student in the Department of Criminology & Criminal Justice at the University of Maryland. She studies criminal court decision-making, sentencing, and gender and race disparities in the criminal justice system. She is currently co-authoring a paper that uses multilevel modeling to look at inter-judge variation in the effects of offender appearance characteristics on sentencing outcomes. Ms. Richardson works as a research assistant for Dr. Johnson in the Department of Criminology and Criminal Justice at the University of Maryland. She will work closely with Dr. Johnson on this project, serving as the primary project supervisor.

Proposed Research Plan

Dr. Johnson and Ms. Richardson agree to fulfill the full duties and conduct the proposed analyses outlined in the invitation for proposals. They will first clean the data and select appropriate cases for analysis before reporting back to the State of Connecticut with information about the final sample. To consider the differences between actual and evidence-based sentencing, they will then stratify the sample into three offense severity categories and compare actual sentence lengths with risk/needs assessment scores using tertiles within each offense severity category. The characteristics of those cases whose sentence length and risk assessment score groups do not align will be assessed. To determine the time to rearrest or revocation of probation for prisoners and probationers, they will use semiparametric survival analyses, such as Cox modeling, and address censoring issues where needed. For offenders who were sentenced to incarceration, survival analysis will begin at the time of release from prison. To compare differences in the nature of violations among the risk/needs assessment score groups, they will use Chi-square tests. To compare differences in the rates of violations among the risk/needs assessment score groups, they will use Analysis of Variance (ANOVA) techniques as well as multiple regression analysis. To identify risk factors that differentiate between those offenders who do and do not violate probation with either a new or technical offense, they will use Classification and Regression Trees (CART). Supplementary clarifying analyses, such as robustness checks or alternate modeling specifications, will be conducted and reported as needed.

In addition to the analyses suggested by the Connecticut Sentencing Commission, Ms. Richardson will use the data to conduct related research for her dissertation. Depending on the exact information available in the dataset, she is interested in using the data to perform trajectory analyses of offender punishments as well as to evaluate the effects of individual variables within the LSI-R subscale scores on sentencing and recidivism outcomes. Due to the sensitivity of the data, the dissertation will not make use of any personal identifiers, and it will categorically mask the identity of state, referring only to data from "a Northeastern state." Furthermore, no additional analyses will be conducted without written approval from the Connecticut Sentencing Commission.

Conclusion

Dr. Johnson and Ms. Richardson are excited to work with the State of Connecticut and conduct the evidence-based sentencing assessments laid out by the Connecticut Sentencing Commission. Dr. Johnson has an impressive record of experience working with large sentencing datasets, evaluating risk assessments, and performing the types of sophisticated analyses required for this project. Ms. Richardson has demonstrated superior performance as a doctoral student and is prepared to conduct meaningful research for her dissertation using Connecticut's sentencing data. They believe that this partnership will be mutually beneficial for Connecticut and the researchers, providing valuable information about the effects of evidence-based sentencing to the State of Connecticut and laying the foundation for subsequent dissertation work.

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