



Sentencing

Sentencing

Sentencing—the imposition of a criminal sanction by a judicial authority.

Most sentencing decisions are made by a judge, though in some cases, especially death-eligible cases, juries are involved.

Goals of Sentencing

Five(5) goals influence modern sentencing practices:

1)

2)

3)

4)

5)

1. Retribution

...

- **Early punishments were swift and immediate.**
- **_____ and _____ were common punishments.**
- **Retribution follows the Old Testament:**

- **Retribution holds offenders personally responsible; they get their “just deserts.”**

2. Incapacitation

...

■ In ancient times _____

-
- It is popular in the U.S., as evidenced by the increase in prison populations. (Some call this the “lock ‘em up” approach).

3. Deterrence

... a goal of criminal sentencing that seeks to _____

- **It demonstrates that crime is not worthwhile.**
- **Overall goal is _____**
- **There are two types of deterrence:**
 - **Specific**
 - **General**

Deterrence

Specific Deterrence

Seeks to prevent

General Deterrence

Tries to influence
the behavior of

4. Rehabilitation

... the attempt to reduce the number of crimes by

- **Education, training, and counseling are some of the vehicles used.**
- **The ultimate goal is to reduce the number of offenses.**

5. Restoration

...

-
- **Crime is a violation of a person as well as the state.**
 - **Restorative justice** addresses the needs of the victim.
 - **Sentencing options focus primarily on**
-

Voluntary/Advisory Sentencing Guidelines

- **Recommended sentencing policies that are not required by law but serve as guides for judges.**
 - **“Sentences” are based on**
-

Aggravating and Mitigating Factors

Aggravating

- Circumstances relating to the commission of a crime that make it more grave than the average instance of that crime.

1) _____

Mitigating

- Circumstances relating to the commission of a crime that may be considered to reduce the blameworthiness of the defendant.

1) _____

Federal Sentencing Guidelines

Purpose of the Guidelines is to:

Mandatory Sentencing

Mandatory sentences are a form of structured sentencing that allows leeway in the sentence required for a crime.

- **Takes away judicial discretion**
- **Results in less plea-bargaining and more trials.**

Three Strikes Laws

Some states have “Three Strikes Laws,” which

Innovations in Sentencing

Some judges are paying closer attention to alternative sentencing strategies.

Modern Sentencing Options

Traditional Sanctions

There are four traditional sentences:

- 1) _____
- 2) _____
- 3) _____
- 4) _____

A judge's discretion to choose the sanction type varies depending on the structure of sentencing used within that particular jurisdiction.

I. Fines

Fines are one of the oldest forms of sentencing.

Fines may be used alone or in combination with another penalty.

More than \$1 billion in fines are collected nationwide each year.

I. Fines

Arguments For

- _____
- **Lower tax burden**
- **Deny criminals the proceeds of their criminal activity.**
- _____
- **Can be made proportionate to the severity of the offense.**

Arguments Against

- _____
- **Offenders often serve no time.**
- _____
- _____

II. Probation

Sentencing Options:

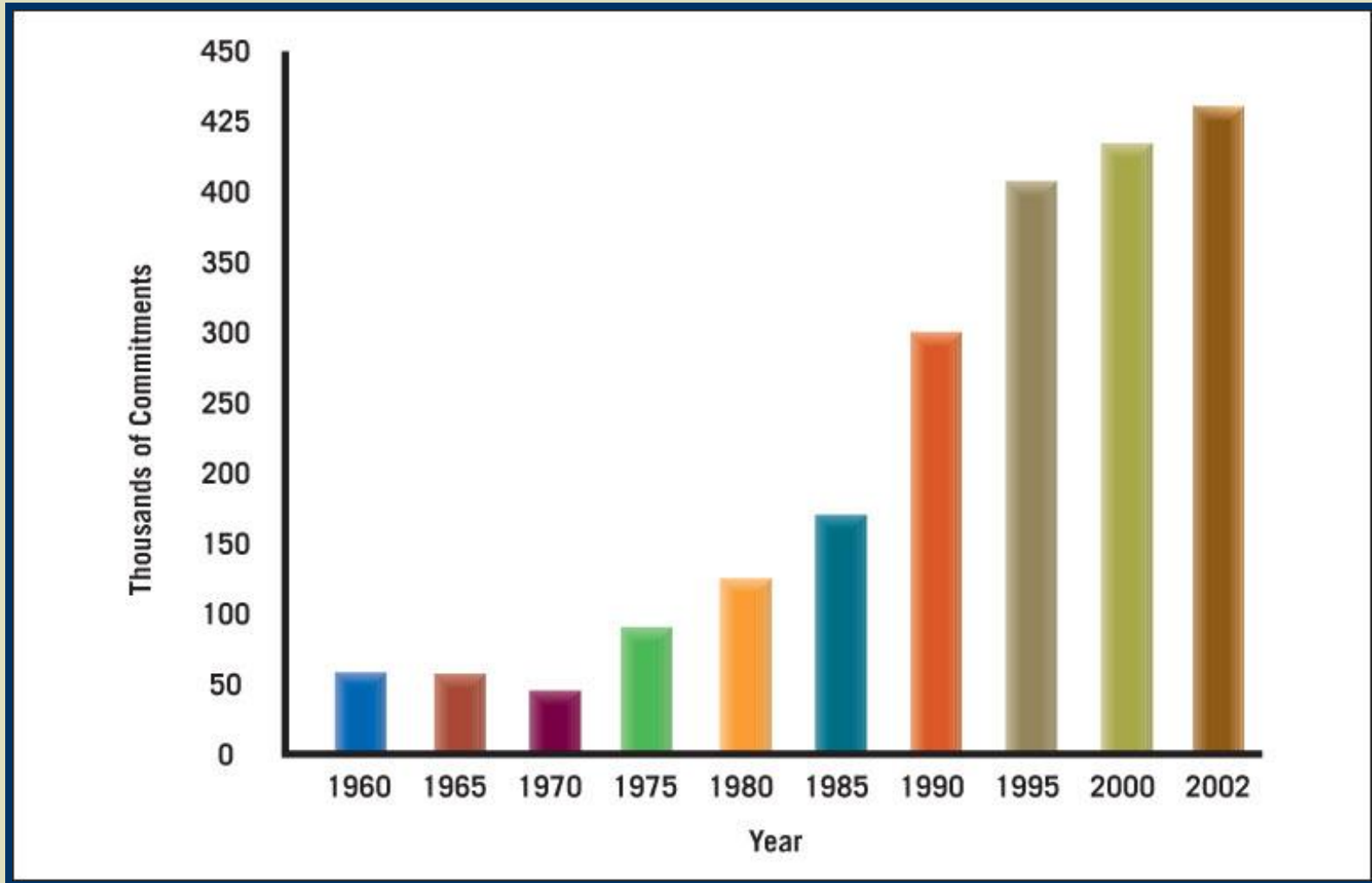
III. Imprisonment

Bureau of Justice Statistics (2004) reports:

In 2002, there were 1,051,000 people convicted of felonies in state courts and 63,217 in federal courts.

- **41% received active prison terms, with an average length of 4.5 yrs.**
- **28% received jail sentences with an average length of 7 months.**
- **31% were given straight probation, with an average sentence of 38 months.**
- **25% were ordered to pay a fine.**

Court-ordered Prison Commitments, 1960-2002



Bureau of Justice Statistics, 2004

CRIMINAL JUSTICE TODAY, 10E
by Dr. Frank Schmalleger

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IV. Death Penalty

The Death Penalty

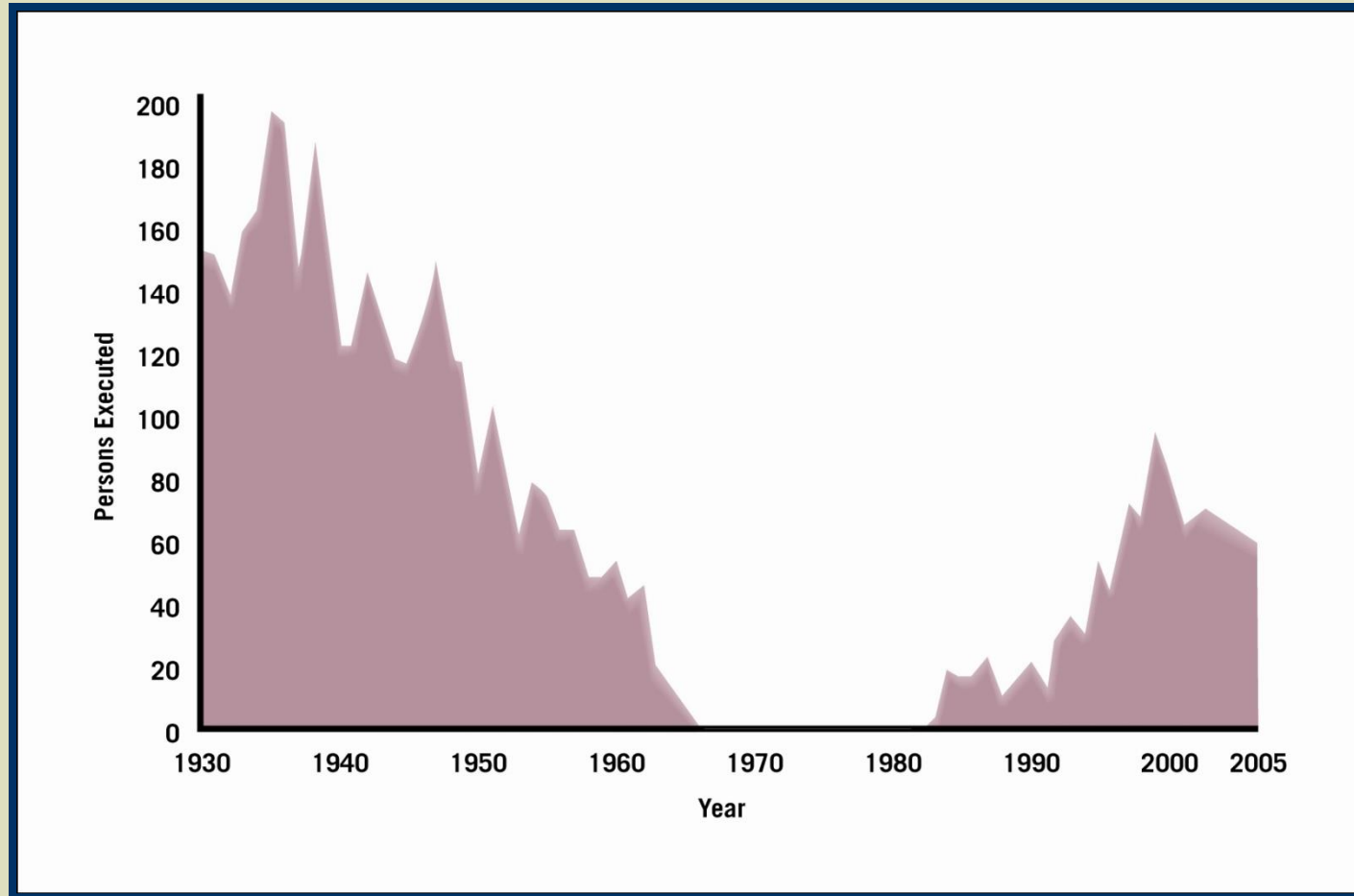
_____ means the death penalty. It is the most extreme of all possible sanctions and is reserved only for especially repugnant crimes (known as _____).

The Extent of Death Penalty Statutes

Capital punishment is a sentencing option in 38 states and the federal government.

- States vary considerably with regard to the number of death sentences given and the number of executions.

Court-Ordered Executions Carried Out in the United States, 1930-2005



Source: Bureau of Justice Statistics, 2006

Offenders on Death Row

On January 1, 2006, there were 3,254 people on death row in the U.S.

- **98% male**
- **43% white**
- **13% Hispanic**
- **42% African American**
- **2% were of other races (mostly Native American and Pacific Islander)**

Methods of Execution

- **Methods of imposing death vary by state.**
 - **Most use _____**
 - **Electrocution, hanging, gas chamber, and firing squad are still on the books as a option in at least one state.**

Poll Everywhere- Death Penalty

Abolitionist and Retentionist Positions on Capital Punishment

Arguments for Retention

Arguments for Abolition

Is the Death Penalty Cruel and Unusual?

The Courts and the Death Penalty

U.S. Supreme Court defined cruel and unusual methods of execution in *In re Kemmler* (1890):

“Punishments are cruel when they involve torture or lingering death; but the punishment of death is not cruel within the meaning of that word as used in the Constitution.”

The Death Penalty and Innocence

Claims of innocence are being partially addressed by recently passed state laws that mandate DNA testing of all death row inmates in situations where DNA might help establish guilt or innocence.

The Innocence Protection Act (2004) provides federal funds to help analyze DNA at crime labs throughout the country.

The Death Penalty and DNA

**The Death Penalty Information Center
claims that _____
in 25 states were
freed from death row between 1973 and
2007 after it was determined that they
were _____**

The Death Penalty and Mental Capacity

Although people with very low IQ's may not be executed, serious mental illness is not a bar to execution unless it affects the condemned inmate's mind such that he doesn't know why he's on death row or doesn't understand the punishment.

The Death Penalty and Age

Roper v. Simmons (2005)—

There is no *upper* age limit on executions.