

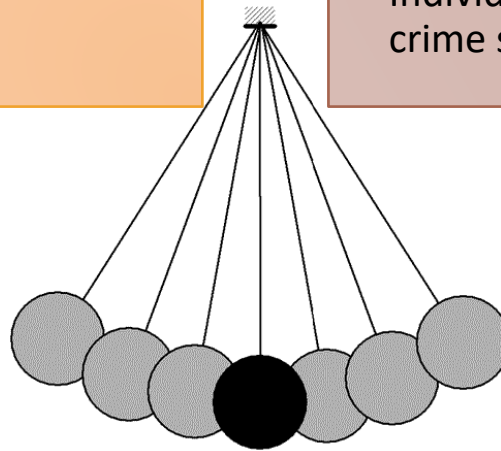
TWO MAIN SCHOOLS OF THOUGHT ON CRIME REFLECTED IN SRA

Utilitarianism (Rehabilitation)

- General definition = 'greatest good for the greatest number'
- In criminal justice = punishment serves as deterrence, receive rehabilitation
- Looks forward by basing punishment on social benefit

Rights-based (Retribution)

- General definition = eye for an eye or "do unto others..."
- In criminal justice = criminal behavior deserves punishment
- Looks backward using the crime as basis for punishment
- Humans have free will and can make rational decisions
- Individuals who make a conscious choice to commit crime should be punished



SENTENCING REFORM ACT OF 1981

Purposes of Sentences

- **Just deserts (retribution)** – articulated in first three purposes of Act.
 - Proportionality between crime and punishment.
 - Respect for the law - links proportionality and equal treatment as essential elements of just punishment.
 - Incorporation of principle of equality.
- **Utilitarian (rehabilitation)** – articulated in next two purposes of Act.
 - Social defense, deterrence and incapacitation.
 - Facilitative rehabilitation in which assistance is offered but never required.
- **Economic Cost** – decision made by the Legislature for itself.
 - Legislative enactment was required before sentencing guideline recommendations became effective.
 - Impact of sentencing recommendations allow Legislature to make final decision as to the level of incarceration.

9.94A.010 Purpose. The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to add a new chapter to Title 9 RCW designed to:

(1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;

(2) Promote respect for the law by providing punishment which is just;

(3) Be commensurate with the punishment imposed on others committing similar offenses;

(4) Protect the public;

(5) Offer the offender an opportunity to improve him or herself; and

(6) Make frugal use of the state's resources. [1981 c 137 § 1.]

SENTENCING REFORM ACT – Chapter 196, Laws of 1999

Purposes of Sentences

- **Just deserts (retribution) – #1, #2, #3**
 - Proportionality between crime and punishment.
 - Respect for the law - links proportionality and equal treatment as essential elements of just punishment.
 - Incorporation of principle of equality.
- **Utilitarian (rehabilitation) – #4, #5, #7**
 - Social defense, deterrence and incapacitation.
 - Facilitative rehabilitation in which assistance is offered but never required.
 - **Support use of services/programs that reduce reoffending**
- **Economic Cost – #6, #7**
 - Legislative enactment was required before sentencing guideline recommendations became effective.
 - Impact of sentencing recommendations allow Legislature to make final decision as to the level of incarceration.
 - **Acknowledges local resources**
 - **Reduce court cases, convictions, carceral population readmissions**

RCW 9.94A.010

Purpose.

The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to:

- (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
- (2) Promote respect for the law by providing punishment which is just;
- (3) Be commensurate with the punishment imposed on others committing similar offenses;
- (4) Protect the public;
- (5) Offer the offender an opportunity to improve himself or herself;
- (6) Make frugal use of the state's **and local governments' resources; and**
- (7) **Reduce the risk of reoffending by offenders in the community.**

SGC CONSIDERATIONS WHEN ESTABLISHING RANKED OFFENSES IN 1983

- ❖ SGC gave considerable weight to the Legislature's directive to "emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender."
- ❖ Crimes Against a Person were ranked more seriously than Crimes Against Property.
- ❖ SGC assigned seriousness rankings based on the seriousness of the harm threatened or imposed. No formal criteria were used.
- ❖ The SGC frequently departed from the legislative offense classifications of A, B, and C (e.g. Rape 2 – class B – SL8; Burglary 1 – class A – SL7).
 - ❖ The most serious example of conduct was considered when assigning classification that sets the maximum penalty.
 - ❖ SGC based its ranking on the typical example of the crime since exceptional sentence provisions could be used for extreme cases.
- ❖ SGC believed that appropriate, individualized sentencing was possible within the presumptive sentence ranges. Where the range did not allow an appropriate sentence, the authority to impose an exceptional sentence provided the necessary flexibility.

Source: Boerner, D. (1985). *Sentencing in Washington: A legal analysis of the sentencing reform act of 1981*. Butterworth Legal Publishers.