

Dual Mode Sentencing in a Nutshell

Dual Mode Sentencing applies to adult felony convictions where a prison term is the likely punishment.

Dual Mode Sentencing requires a separation of motivations (sentencing philosophies). *Retribution* is considered separately from *Incapacitation*. Retribution is what motivates society to punish criminals for hurting victims and for violating societal norms. Incapacitation is to keep convicts from victimizing others. In Dual Mode Sentencing these two motivations must be separated in the minds and processes of criminal justice professionals.

Dual Mode Sentencing is a combination of both Determinate Sentencing and Indeterminate Sentencing – hence “dual” mode. The convict is given two sentences at the same time, a determinate sentence and an indeterminate sentence.

Since the desire for retribution deals with the current crime and the effects on victims, it is a known quantity in advance of sentencing. The Judge considers *retribution only* in specifying a determinate sentence. After the inmate has served his determinate sentence in full, he has “paid his debt to society.” Society and the victims are legally satisfied in full.

The Judge also specifies a concurrent indeterminate sentence. The Parole Board considers *incapacitation only* in keeping an inmate in prison on the indeterminate sentence. No consideration is given by the Parole Board to the inmate’s crime for which he was incarcerated, for he has already paid his debt to society. Only the likelihood of the convict to hurt future victims is given consideration. This focuses the Parole Board’s direction on *preventing recidivism*.

Inmates likely to fit into society with no future problems are released. Inmates prone to recidivism are retained. The decision is made upon each inmate’s current and regularly updated *recidivism likelihood score*, which is a compilation of statistical analysis derived from *evidence based practices*.

The benefit of Dual Mode Sentencing results from the *clarity* that is achieved by *separation of motivations*. The Judge is given responsibility for correctly determining punishment for retribution. The punishment is definite, but does not have to be padded to account for some future condition of the inmate that is unknown to the Judge. The Parole Board does not have to consider whether the inmate has been punished enough for his crime. They only consider the fitness of the inmate to be released, and that has a direct effect on recidivism. Separating motivations results in clarity about *why* criminal justice professionals come to their decisions. Better understanding leads to better outcomes.

More information is available at DualModeSentencing.org.