

A Proposal for the Reform of Felony Sentencing Guidelines

Proposed Utah Dual-Mode Sentencing Methodology

Glen A. Collett¹
November 21, 2013

Summary

Most law-abiding citizens think of prison as just a place to put away bad criminals. Yet we need to revisit how well our criminal justice system works. Utah's criminal justice system is not performing as well as it could. This we know because although Utah has a moderate incarceration rate², it has one of the highest recidivism rates^{3,4} in the nation. The underpinnings of our attitudes towards criminal justice are demonstrated in our approach⁵ to sentencing convicted felons. Our *motivations* are fundamentally important – not a criminal's motivation for committing crime – but our motivations, as a society, for punishment of criminals. In this paper the motivations for punishing criminals are examined. A proposal for a *better, more just and fairer* system of sentencing is proposed. This is called Dual-Mode Sentencing. The Dual-Mode methodology invites criminal justice professionals to differentiate their various motivations for punishment. It applies separate types of sentences concurrently to focus on satisfying each of those motivations. The result is a criminal justice system with a focus on properly addressing individual needs for better outcomes. Why change? Why not just continue to put away bad criminals in prison? It is because the safety of the people in our State can be improved by a better approach to criminal justice. Beneficial results are safer communities, fewer – but the right people kept in prison, and an annual savings of millions of tax dollars.

Background

Judges in Utah have a broad range of options in sentencing. For felony convictions incarceration in the Utah State Prison is an option. Currently that is done using a mode called Indeterminate Sentencing. Simply explained, with Indeterminate Sentencing the judge pronounces a sentence having a broad range of time to serve, for example, one-to-fifteen years. The inmate may then be kept in prison for a minimum of one, and a maximum of fifteen years. In actuality, the usual sentence served is somewhere in the middle. The gatekeeper is not the judge, nor is it the Department of Corrections. Rather an autonomous board, called the Utah Board of Pardons and Parole, controls when each inmate is released from prison. They have authority to release a person from prison at any time. They also may choose to maintain a person in prison for up to the full maximum of the sentence. In making this decision, the Board usually relies on a Sentencing Matrix, in which factors relating to the

¹ Glen A. Collett, Sandy, Utah © Author contact: gacollett@copper.net

² Prisoners in 2010, US Department of Justice Bureau of Justice Statistics, February 2012

³ State of Recidivism - The Revolving Door of America's Prisons, PEW Center on the States, April 2011

⁴ Utah's Recidivism Rate in Light of National Trends, Office of Legislative Research and General Counsel, January 2012

⁵ Adult Sentencing and Release Determinations Philosophical Approach, Utah Sentencing Commission, June 2012

severity of the crime, and past behavior such as repeated crime and other types of crime, are considered. The Board does not have to follow the recommendations of the Sentencing Matrix, but generally does so. They also hold hearings in which they review the inmate's file. Hearings provide a point in time for the Board to review and determine the status of the inmate. After the hearing the Board may set a release date or may set a date for another hearing. The Board has the ability to take into consideration both positive and negative behaviors of the inmate while incarcerated and while on parole. Usually these factors are not given significant consideration unless a special hearing is granted for review on these grounds.

In Utah roughly 95% of inmates are eventually released⁶. The average time of incarceration for felony convictions of those who are released is initially three (3) years. However, that is not the average time that an individual inmate spends in prison. Most inmates who are released commit parole violations or commit repeat crimes, and are returned to prison within a short time of their release. Statistics show that Utah has a high recidivism rate (67% to 54%, depending on the time period studied) and as a consequence the average time an inmate spends in prison is much longer. Utah's high rate of recidivism raises the cost for the average inmate's incarceration to close to \$250,000.⁷

Other Sentencing Methodologies

Indeterminate Sentencing is used in the State of Utah, as described above. Other jurisdictions have different ways of determining an "appropriate" sentence for a felony conviction. Some states use **Determinate Sentencing**. This is where the judge sets the sentence to be served, and there is little that can be done to change the outcome. When the sentence is expired the inmate is released, but not before and not later. Some jurisdictions allow **Time-Off for Good Behavior**. With this modification the determinate sentence can be modified to subtract time from the end of the sentence for positive behaviors exhibited by the inmate during incarceration. Another approach is **Mandatory Minimum Sentencing**. In this methodology the judge sets the duration of the sentence, but by statute cannot sentence the convict to a time shorter than the statutory minimum for that crime. The inmate may also then not get time-off for good behavior which would reduce his sentence to less than the mandatory minimum. **Three-Strikes-You're-Out Sentencing** relates to a plan for stopping chronic criminal behavior, making the third offense subject to a mandatory life sentence.

Philosophies Behind Sentencing

Society applies several reasons to justify punishment of criminals by various sentences. The most common motivations are incapacitation and rehabilitation.

--- **Incapacitation** is protection of the public by removing the offender from society. The philosophy of incapacitation assumes that once an offender has committed a crime, the offender is capable and likely to repeat the same or other criminal acts, and the public is justified in removing the ability of the offender to commit further crime. Incapacitation generally equates to a prison sentence, since inmates are kept away from potential victims by

⁶ UDC Prison Education, Utah Department of Corrections Website, <http://www.corrections.utah.gov>

⁷ Corrections System Performance, Glen A. Collett and E.E Rogers, June 17, 2013

being imprisoned. Note that because of similarly sounding words, terminology may be confusing. *Incapacitation* is the motivation of protecting future potential victims, while *incarceration* is the act of imprisonment.

--- **Rehabilitation** philosophy recognizes that society is also protected by changing an offender's behavior to one in which the former offender is dedicated to being law-abiding. Therefore efforts are made to address the cause of criminal behavior and provide the offender with personal tools (knowledge and techniques) which reinforce law-abiding behavior. Rehabilitation looks toward the day when the offender is released, whereas incapacitation looks at effectively handling the immediate situation.

--- **Retribution** is the concept that the offense against another individual, and the offense of breaking society's rules, is something which requires punishment to satisfy the aggrieved parties. Retribution is often the focus of victims of crime and those who identify with them and support them. By some people's standards, there is no end to a desire for retribution, but for most of the public the concept exists that there comes a time when the criminal has "paid his debt to society."

--- **Reparation** suggests that there is something physical which can be done by the offender to repay the damage inflicted. This may be true for property crimes, but does not really apply to non-property crimes. An inmate "paying his debt to society" really has nothing to do with reparation, and much more to do with satisfying retribution.

--- **Denunciation** involves society expressing its disapproval and reinforcing its moral boundaries. Denunciation can have a positive effect in protecting other potential victims. For example, the Sex Offender Registry is a form of punishment by denunciation. Youth are influenced by hearing those in authority denounce crimes, particularly those of a moral nature. However, supporting denunciation without a clear understanding of the ramifications can sometimes have undesirable consequences and fuel injustice.

--- **Deterrence** is an effect of decreasing criminal behavior, in two ways: first, the individual is deterred by the threat of further punishment, and second, others who may be inclined to commit similar offenses are warned of the punishment for such actions.

Deterrence will have its effect if the penalties for criminal behavior are sufficiently strict. Reparation and denunciation are factors which have specific application to certain cases only, and can be applied as necessary. In the remainder of this discussion, we will concentrate on retribution, incapacitation and rehabilitation as the primary motivators for the punishment of crime.

There is a large group of people who do not want to be concerned with the condition of those who are in prison. They simply want to "lock them up and throw away the key." To give this approach a name, these people are seeking strict **retribution**. They may also express justification for their attitudes based upon **incapacitation** and **deterrence**. The problem with this approach is that is not how things work in reality. True, there are some persons who are violent criminals and because of their mental capacity and/or attitudes are intractable menaces to society and may be kept in prison for the duration of their lives. Yet that is not the norm. Presently 95% of inmates will at some point be let out of prison. Those of the public who are in the lock-them-up-and-throw-away-the-key group need to ask themselves these

questions: When former convicts are released from prison, and become your neighbors, what kind of persons do you want them to be? Do you want them to be out-of-work drug addicts who have only other criminals for friends, or do you want them to get and keep a job, avoid illegal drugs, and be committed to being law-abiding individuals? The point is that what we do in the criminal justice system and the corrections system has major ramifications on society in general. Not only do we pay in taxes for the courts and prisons, we also pay, sometimes personally, for increased crime, a breakdown of families, and a loss of safety and security. In actuality there is no reason to fixate on a single reason or philosophy to justify punishment of criminals. Rather, the differences in crimes, the differences in people, the differences in victims and the differences in offenders are more than enough differences to suggest that one particular philosophy may bear more weight than another on individual circumstances.

Dual-Mode Sentencing Methodology, Phase I

A new approach to sentencing is proposed, called Dual-Mode Sentencing. This methodology is called "Dual-Mode" because it is partly determinate, and partly indeterminate. The most important difference from other current sentencing philosophies is that Dual-Mode Sentencing looks at the motivations behind sentencing and responds to each with an appropriate strategy. A separation of the consequences for each of the reasons for punishment is proposed and the importance of individuality is stressed. The result is a benefit to societal safety and security. A global view of costs associated with crime and the criminal justice and corrections systems is also proposed.

Retribution is often overlooked in the incapacitation/rehabilitation debate, it being assumed that whichever is chosen will result in a period of "fair" retribution. While society demands retribution, it should be for the crime committed, and should be fully extracted from the convicted criminal until he has "paid his debt to society." In the interest of fairness, retribution should be predetermined based on the crime and its consequences. The current Sentencing Matrix may be a good starting point. Yet the Sentencing Matrix includes parts which do not relate exactly to the crime at hand. For instance, the Sentencing Matrix includes criminal history. Courts often go to great pains to exclude consideration of historical items which may influence the outcome of a trial. If such is the case, then these items are also not appropriate to factor into the determination of an appropriate punishment for retribution. In saying that, note that punishment to satisfy retribution is only a *part* of the total punishment picture in Dual-Mode Sentencing. To illustrate: A victim may demand a year of incarceration for retribution for a crime, assuming that is fair. Yet that same victim would not be justified in demanding two or three years just because the perpetrator had other victims. (It is assumed that those victims may each demand their fair share.) While it may be appropriate for the Sentencing Matrix to take that into consideration for application to indeterminate sentencing, it would be inappropriate to apply the same standards to a retributive sentence within the Dual-Mode Sentencing framework. Therefore, it is proposed that crimes be graded based on their severity for the purpose of determining an appropriate penalty to satisfy retribution for that crime, leaving aside, for the moment, other motivations for punishment. Further, it is proposed that a period of incarceration be served by an inmate for the purpose of satisfying retribution, wherein this period is the *minimum* penalty which may actually be meted. The

duration may be significantly less than the current Sentencing Matrix, but it would be determinate, controlled by the judge within statutory guidelines, and unable to be shortened or lengthened by the Department of Corrections or the Board of Pardons and Parole. Thus there is no question that punishment completely satisfying retribution will be fully served. In this manner, once an inmate has served the time for this part of the sentence, he would have paid his debt to society, the victim would be legally satisfied, and that matter would no longer be open to question or debate.

Dual-Mode Sentencing Methodology, Phase II

After an inmate has fully served this sentence to satisfy retribution, other motivations for punishment *may* or *may not* be a factor. It is obviously in society's best interest to keep unreformed criminals separated from society lest they continue to prey on victims. Thus **incapacitation** may legitimately continue to be a motivation for retention of the offender. Under Dual-Mode Sentencing the fitness of an inmate for reintroduction into society is of critical importance. This requires accurate, individualized assessment of whether an inmate has been corrected and is committed to being law-abiding. The point of incapacitation is to stop damage to society through repeat crimes. If there is little likelihood of recidivism, then it logically follows there is no further justification for incapacitation. Individualized assessment of an inmate's state of fitness for release from prison is an important part of the Dual-Mode concept.

A study of recidivism⁸ shows that there is a fraction of inmates and parolees who are safe to release from prison. The study shows that there are two groups. One group is solidly committed to being law-abiding. The second group is practically locked on a course of heading back to prison within a short time from release. By their attitudes and actions inmates display which group they likely are in, thus determining who should be released and who should remain incarcerated as the best course of action. Fortunately, this is becoming easier with application of more modern technology. Certain factors have been demonstrated to predict the ability of an offender to avoid reoffending. To illustrate: Studies show that there is a strong correlation between education and avoidance of repeat crime⁹. Certainly, the amount of education (whether that education was gained before incarceration, or was achieved while incarcerated) is a factor in the ability of a person to be law-abiding. Another obvious example is whether or not the person has an unresolved drug habit. Drug offenses have an extremely high rate of recidivism¹⁰. Whether or not personal drug use is damaging to society is debatable. But certainly collateral crimes fueled by illegal drug use, such as burglary, are detrimental. To release a person from prison with an unresolved drug habit is tantamount to setting a criminal free into society to find another victim. A third example is whether or not the inmate has a supportive family structure which will assist him in reintegrating into society¹¹. A supportive structure of family and friends is extremely important in a parolee's successful reintegration into society following release from prison.

⁸ A Numerical Analysis of Recidivism of Those Released for Prison in Utah, E.E. Rogers and Glen A. Collett, January 2013.

⁹ Education and Correctional Populations, US Department of Justice Bureau of Justice Statistics, April 2003

¹⁰ Recidivism Among Drug Offenders, Criminal Justice Policy Review, May 2005

¹¹ The Role of Family and Pro-Social Relationships in Reducing Recidivism, American Correctional Association, 2012

Unfortunately, the longer a person remains in prison, the less likely it is that family and friends outside continue to be a part of the inmate's life. A fourth factor is whether the inmate has the skills to acquire a job upon release from prison¹². A job provides stability as well as self-support, while the productive activity of a job helps to keep one out of trouble.

A combination of these and *many more factors* can be statistically processed to accurately predict the ability of an individual to be released into society without recidivating. This may be approached on an actuarial basis, similarly to how insurance companies assign costs based on the risk or likelihood of damage occurring, considering the most informative indicators. Another analogy is the calculation of credit scores, which provide an indicator of credit worthiness for millions of people. They are updated daily and are constantly changing as they respond to the accumulated information from a multitude of sources. Similarly, an inmate's prospects for successfully remaining out of prison if released are constantly changing as the offender receives rehabilitation treatment and makes personal decisions to avoid a life of crime. It would certainly not be a stretch for the Department of Corrections to maintain a "recidivism-likelihood score" on each of the inmates in its care.

Under Dual-Mode Sentencing the Department of Corrections plays a much greater role in preparing inmates for successful release. It becomes incumbent for the Department of Corrections to focus much more on actually providing *correction*, rather than merely warehousing inmates. **Rehabilitation** should be a primary focus of the corrections system. While prisons provide incapacitation during the incarceration period, for many inmates there is much more that can be done to assure a successful, recidivism-free release. To its credit, currently the Department of Corrections recognizes that providing programs for rehabilitation of inmates is a major factor in successful outcomes. The Department of Corrections does try to schedule treatment programs just before an inmate's projected release date, but this is backwards thinking – jumping through the hoops to deliver a program before the already-set release date. Rehabilitation should begin when a person first enters prison. What the system *currently* lacks is a definite showing that an inmate's progress in programs leads to a benefit to the inmate. In the hearings before the Board of Pardons and Parole, the rehabilitative efforts of the Department of Corrections are often overshadowed by a review of the crime. With Dual-Mode Sentencing, by the time of the hearing the retributive phase is already completed, and the focus is on the fitness of the inmate to be released. Thus, recent rehabilitative efforts and the positive attitudes and actions of the inmate would be recognized and rewarded.

What the inmate needs is the *hope* that comes when he is able to do something for himself that likely leads to his benefit. For an inmate who truly wants to get out of prison and become a contributing member of society, the opportunity to excel in a rehabilitation program would be actively sought for – *if* it led to advancing his position to be released from prison. Under Dual-Mode Sentencing, the *reason* for a person to remain in prison is always considered. After the retributive phase of the sentence is completed, there is no further price for the offender to pay to *satisfy his debt to society*. Then, the ongoing reasons for continued prison stay are incapacitation and rehabilitation. Both relate to the capacity of the offender to

¹² Evaluating the Effectiveness of Correctional Education, Rand Corporation, 2013

successfully be released from prison without recidivism. Both the offender and the Department of Corrections have incentive to make that the reality. For the offender, the goal, of course, is freedom. For the Department of Corrections, the incentive is reduced costs and a mark of success for having provided *correction* that is lasting.

The Department of Corrections may certainly provide rehabilitation programs during the time the inmate is incarcerated in the retributive phase. If they do so, perhaps they may have an inmate ready for release immediately upon completion of the retributive sentence. Once an inmate is ready for release from prison (he poses no threat to society) and he has fully served his retributive sentence (paid his debt to society), there is absolutely *no benefit* to keeping the inmate in prison any longer. No benefit to the inmate – no benefit to society – no benefit to the victim – no benefit to the Department of Corrections – no benefit to the Board of Pardons and Parole – and certainly no benefit to the taxpayer.

Dual-Mode Sentencing Example

Consider this as an example of how Dual-Mode Sentencing would work:

- 1) First the Sentencing Commission, in concert with the legislature would set a schedule of appropriate *retributive* sentences for crimes, based upon the severity of the crime. Perhaps a small degree of latitude would be appropriate to allow the judge to take into account individual circumstances (i.e. from 1 to 3 years). The Sentencing Commission may also set a schedule of applicable maximums for associated indeterminate *rehabilitative* sentences. Both the retributive sentences and the rehabilitative sentences may include life sentences, if that were applicable to the severity of the crime.
- 2) A criminal, upon being found guilty, would be sentenced by the judge. The judge, who at the point of sentencing is highly familiar with the case, would *hear from the victims* on their recommendations for sentencing. The judge could determine the reasons for the victims' concerns, whether it was motivated by desire for retribution, or by a concern that the perpetrator be incapacitated. Using the appropriate item from the retributive schedule, and by using appropriate latitude in judgment, the convict would be given a specific determinate retributive sentence. Although the judge may select from a range of time, the sentence would be a specific duration. The convict would also be given a concurrent indeterminate rehabilitative sentence. (i.e. The Judge may say, "I sentence you to 2 years in the State Prison so that you will pay your debt to society for this crime, and I give you a concurrent sentence of up to 15 years until you have demonstrated your fitness to be a member of society.")
- 3) The inmate would serve the two years prior to a hearing. During that time, he may participate in rehabilitation programs, looking forward to the 2-year mark where he may demonstrate his fitness to be a member of society. The inmate knows that he has a definite two years to serve. He knows that time is a *penalty* for his actions. He knows that after the two years are up, any further time in prison will be because he has not prepared himself to be released. The victim knows that a definite time is being extracted from the perpetrator's freedom, and at the end of that time the victim has no more right to claim. The Department of Corrections knows that if it does its job right, it can save the taxpayer money by preparing the inmate to be fully corrected as soon as

possible following the end of the retributive sentence, with low likelihood of recidivism.

- 4) A hearing is then held by the Board of Pardons and Parole. The retributive sentence has been fully served at that point. The crime is not rehashed. The victim's claims have been fully satisfied, so there is no need to hear from the victim. The main purpose of the hearing is to determine the inmate's fitness to be released from prison. The goal of the Board of Pardons and Parole is to make sure that this process is done correctly. The measure of the Board's success is lowered recidivism statistics. Therefore the Board must make decisions that would let the right people out of prison. Keeping those who have little likelihood of returning to prison would be unproductive and against the interests of the taxpayer. Releasing those who would have a high recidivism potential is also detrimental, first because of the repeat crimes committed, and then also because of the continued corrections costs. The Board needs to apply actuarial skills to make this decision, which would be based on many factors. It would most likely be computerized. It would involve data mining by computer to determine the best criteria on which to make the judgment. If the determination of the Board is that the inmate is unlikely to recidivate, the inmate would be released.
- 5) If the decision of the Board is to retain the inmate in prison, the board would set a review date for a further hearing. The inmate would be kept in prison for purposes of incapacitation or rehabilitation. Whether or not the inmate would progress towards being released would depend upon the attitudes, interests and actions of the individual inmate. Meanwhile, the factors which go into the decision of whether or not to release are constantly changing. The inmate has knowledge about what he needs to do to qualify for release. This provides the inmate with hope and direction, both of which are positive motivators.

Comparison to Other Sentencing Methodologies

Dual-Mode Sentencing is similar to **Mandatory Minimum Sentencing**, however there are major differences. Once again, those differences have to do with the *motivations* behind the sentences. With Mandatory Minimum Sentencing, in the process of setting a guideline that becomes the mandatory minimum all motivations are lumped into one. On the other hand, with Dual-Mode Sentencing, only retribution is considered in setting the guideline for the determinate retributive sentence. Even at that, the guidelines may include a range of terms from which the judge may select. This effectively removes the negative stigma that accompanies Mandatory Minimum Sentencing – that the minimums in some cases are inappropriate and tie the hands of the judge. With Dual-Mode Sentencing there is much more latitude for the judge to set a reasonable sentence. But even better, the judge can focus on appropriate retribution, and can leave factors which may change with time, such as the fitness of the convict to be released, to better informed parties in the future.

Dual-Mode Sentencing improves upon **Time-Off for Good Behavior** because it considers not just the good behavior, but also the actual progression that the inmate is making towards becoming fit to be released into society. However, if the inmate is not progressing to becoming fit for release, Dual-Mode Sentencing has the ability to continue to incapacitate.

With **Dual-Mode Sentencing**, the system should never have a need to require a **Three-Strikes** law. The indeterminate part of the Dual-Mode sentence should keep offenders from becoming repeat offenders. Certainly, a repeat crime after a first release would flag an offender as one who should not be quickly released.

Dual-Mode Sentencing has all the benefits of **Indeterminate Sentencing**, but with an important difference. In the indeterminate phase of Dual-Mode Sentencing the focus is on the ability of the offender to be law-abiding if released. Therefore, the real benefit of indeterminate sentencing is preserved, but is unclouded by a rehashing of the crime.

Benefits of Dual-Mode Sentencing

The primary benefit to **society** of implementing Dual-Mode Sentencing is increased safety and security resulting from a decrease in crime. Currently more than half of the crime committed in the State is done by recently released former inmates. Concentrating our efforts on preventing recidivism directly affects the well-being of society. Further benefits are achieved by strengthening families through providing increased incentive to offenders; both while inmates and also while parolees.

Substantial cost savings to the **State** and the **taxpayer** can be achieved by implementing Dual-Mode Sentencing. The main factor that will drive decreases in costs is lowering recidivism¹³. This is tied directly to making good decisions about which inmates to release from prison and which inmates to keep in prison. Driving this decision process is data mining and an actuarial application relating to risk factors. The knowledge is thus acquired to make good and sound decisions about who to release, based on factors that actually relate to recidivism potential. A decrease in prison population will result. This also lowers the need for costly prison infrastructure expansion.

The benefit to **victims** by using Dual-Mode Sentencing is the definiteness that comes from a determinate retributive sentence. The victim is assured that the perpetrator will be locked-up in prison for the period of time prescribed by the judge. The court will likely take into account the wishes of the victims at the time of sentencing. Victims will know that the retributive sentence is for *them*, to extract from the convict his freedom for a period of time, until the debt to society has been paid. This will be deemed to be a *fair* amount, both by statute and by the determination of the judge, who is most familiar with the case. Because of the inherent definiteness, the victim can then get on with rebuilding their life. They need not be concerned with rehashing the crime in front of a Board at some point in the future. A feeling of resolve to move-on, overcome and improve is more likely to take root, which is the best that can be hoped for, given that they were the victim of crime.

The benefit to **inmates** of using Dual-Mode Sentencing is the understanding that they are paying a definite price for the crime that they committed. It is easier to see *justice* in a definitive sentence than it is in an indeterminate sentence. Once the retributive sentence has expired, the inmate may know that it is his own attitudes and actions that are the primary

¹³ Corrections System Performance, Glen A. Collett and E.E Rogers, June 17, 2013

factors in whether or not he is fit to be released. He may take *hope* that he has something to do that will affect his position. As a consequence, inmates are motivated to take advantage of programs and opportunities to improve themselves.

The **court** system would benefit by using Dual-Mode Sentencing because **judges** would be in control of a major factor in administering justice. They would be able to make a definitive declaration of punishment. Judges are in a unique position of being most familiar with each case. They can seek to determine *justice* in meting punishment, knowing that their decision is determinate.

The benefit to the **Department of Corrections** of working under Dual-Mode Sentencing is that the Department may then concentrate to a greater measure on *correcting the behavior of inmates* rather than on warehousing inmates. The Department is given more control over its destiny since they have a major input into preparing inmates for release. They will actively seek to do those things that will prevent recidivism. **Guards** will have an easier working environment, because the attitudes in the prison would change from a tone of confinement, contention and punishment to a tone of education, progress and cooperation.

The **Board of Pardons and Parole** is benefitted because the impetus of its workload is changed. No longer would they need to review crime to determine whether or not an inmate should be punished further. No longer would they have to hear the testimony of victims, that aspect having already been satisfied by the time the case reaches the Board. They would concentrate their efforts on determining whether or not the inmate was fit to be released into society. By redefining the focus of the Board and computerizing much of their analysis, their overwhelming case load would be reduced to a manageable function. They would be a valuable partner in conjunction with the Department of Corrections in administering the criminal justice/corrections process.

Conclusion

Dual-Mode Sentencing methodology provides a better way of handling felony criminal justice. It reduces recidivism and improves safety and security. It provides benefits to every segment of the criminal justice picture. Economic benefits also accrue to the State as recidivism is reduced and demands on the prison system are lessened. Particularly the State is benefitted by a reduced prison population, which lowers the demand for prison infrastructure. The attitudes of society in general are focused towards a more positive way of dealing with the problems caused by crime.

By implementing Dual-Mode Sentencing, the State of Utah should be able to overcome one of its greatest problems, namely its rock-bottom ranking in the recidivism statistics. It is worthy of Utah to adopt a system that has many elements of positive moral and ethical standards. The State of Utah, its Governor and Legislators, and its criminal justice professionals, should look carefully at the prospects of implementing Dual-Mode Sentencing.