

Presentation title:

Procedural justice in second look resentencing legislation: How prison and court implementation of resentencing was a missed opportunity save costs and lives during the dual pandemic of COVID and racism

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California legislators drafted “second look” resentencing legislation “to eliminate disparity of sentences and to promote uniformity of sentencing” and address bias in sentencing. Due to procedural justice issues in how the prison and court systems implemented the resentencing program in manners that undermined legislative intent, legislators passed subsequent legislation to create a more fair and transparent decision making process, increase the voice of the program’s potential beneficiaries, reduce opportunities for bias, and lead to more equitable outcomes. This paper examines how correctional administrators undermined legislative intent in designing regulations that reinforce instead of remove, barriers to release by creating criteria to exclude people from release that the legislature did not exclude and funneling out worthy candidates from judicial review. It will describe funnel steps, including how the prison system undermines goals by reducing the number of people it will send to the court, and adding eligibility barriers that are not in the statute. It shows how to funnel results in failure to use resentencing to meet state commitments to prison population reduction and prison closure and to minimize COVID morbidity and mortality.