

Joan Petersilia

Probation in the United States

ABSTRACT

Probation officers supervise two-thirds of all correctional clientele in the United States. But despite the unprecedented growth in probation populations over the past decade, probation budgets have not grown. The result is that U.S. probation services are underfunded relative to prisons and serious felons often go unsupervised, encouraging offender recidivism and reinforcing the public's view that probation is too lenient and lacking in credibility. Yet, there is much unrealized potential in probation. Recent research shows that probation programs, if properly designed and implemented, can reduce recidivism and drug use. Moreover, certain probation programs are judged by offenders to be more punitive than short prison terms, and the public seems increasingly willing to support intermediate sanctions for nonviolent offenders. Experimentation and evaluation are needed to determine whether adequately funded probation systems can protect society and rehabilitate offenders.

Probation is the most common form of criminal sentencing in the United States. The American Correctional Association (1995) defines it as: "A court-ordered dispositional alternative through which an adjudicated offender is placed under the control, supervision and care of a probation staff member in lieu of imprisonment, so long as the probationer meets certain standards of contact."

The Bureau of Justice Statistics reports that just over 3 million

Joan Petersilia is professor of criminology, law, and society in the School of Social Ecology, University of California at Irvine. For helpful suggestions, she is very grateful to John DiIulio and the other members of the Brookings Institution's Study Group on Crime Policy. Special thanks are extended to Patrick Langan, senior statistician at the Bureau of Justice Statistics, for helping to locate sometimes obscure sources of probation data.

adults were under state or federal probation at year end 1995, and that probationers made up 58 percent of all adults under correctional supervision (Bureau of Justice Statistics 1996a). The number is so large that the U.S. Department of Justice estimates that nearly 2 percent of all U.S. adult citizens are under probation supervision on any one day. And the population continues to rise—increasing 4 percent in 1994 and almost 300 percent over the past ten years (Bureau of Justice Statistics 1996a).

Despite wide usage, probation is often the subject of intense criticism. It suffers from a “soft on crime” image and, as a result, maintains little public support. Probation is often depicted as permissive, uncaring about crime victims, and committed to a rehabilitative ideal that ignores the reality of violent, predatory criminals.

Their poor (and some believe, misunderstood) public image leaves probation agencies unable to compete effectively for scarce public funds. Nationally, probation receives less than 10 percent of state and local government corrections funding, even though they supervise two out of three correctional clients (Petersilia 1995b).

As a result of inadequate funding, probation often means freedom from supervision. Offenders in large urban areas are often assigned to 100-plus caseloads, in which meetings occur at most once a month, and employment or treatment progress is seldom monitored. As long as no rearrest occurs, offenders can successfully complete probation whether or not conditions have been fully met or court fees paid (Langan 1994). Such “supervision” not only makes a mockery of the justice system but leaves many serious offenders unsupervised.

But while current programs are often seen as inadequate, the *concept* of probation has a great deal of appeal. As Judge Burton Roberts, Administrative Judge of the Bronx Supreme and Criminal Courts, explained: “Nothing is wrong with probation. It is the *execution* of probation that is wrong” (cited in Klein 1997, p. 72).

Scholars and citizens agree that probation has many advantages over imprisonment, including lower cost, increased opportunities for rehabilitation, and reduced risk of criminal socialization. And with prison crowding a nationwide problem, the need for inexpensive and flexible community punishment options has never been greater. Probation leaders (Corbett 1996; Nidorf 1996), policy makers (Bell and Bennett 1996), and scholars (Clear and Braga 1995; Tonry and Lynch 1996) are now calling for “reforming,” “reinvesting,” and “restructuring” probation.

But exactly *how* would one go about reforming probation? Some are

beginning to offer suggestions. There is a general trend toward greater judicial involvement in monitoring probation conditions. In many jurisdictions, judges have established special drug courts. Here, judges identify first-time drug offenders, sentence them to participate in drug testing and rehabilitation programs, and then personally monitor their progress. If the offender successfully completes the program, he or she is not incarcerated and in some jurisdictions (e.g., Denver, Colorado), the conviction is expunged from the official record. Research on drug courts has been limited, but some studies have shown reductions in recidivism (Goldkamp 1994) and increased offender participation in treatment (Deschenes, Turner, and Greenwood 1995).

Other judges have decided on an individual basis to impose probation sentences that are more punitive and meaningful. As part of his sentencing an offender for molesting two students, a judge in Houston, Texas, forced a sixty-six-year-old music instructor to give up his \$12,000 piano and post a sign on his front door warning children to stay away. State District Judge Ted Poe also barred the teacher from buying another piano and even from playing one until the end of his twenty-year probation (Mulholland 1994).

But meting out individualized sentences and personally monitoring offenders takes time, and judges' court calendars are crowded. James Q. Wilson of UCLA has suggested enlisting the police to help probation officers monitor offenders, particularly for the presence of weapons (Wilson 1995). He recommends giving each police patrol officer a list of people on probation or parole who live on that officer's beat and then rewarding the police for making frequent stops to insure that the offenders are not carrying guns or violating other statutes. Police in Redmond, Washington, have been involved in such an experiment since 1992, and while the program has not been formally evaluated, the police believe it has resulted in reduced crime (Morgan and Marris 1994).

But closer monitoring of probationers addresses only half the problem. The more difficult problem is finding jail and prison capacity to punish violators once they are discovered. Closely monitoring drug testing, for example, leads to many positive drug tests (Petersilia and Turner 1993). Most local jails do not have sufficient space to incarcerate all drug users because a greater priority is to have space for violent offenders. The result is that probationers quickly learn that failing a drug test, or violating other court-ordered conditions, has little consequence.

Oregon is trying to rectify this problem by imposing a swift and cer-

tain, but short (two to three days), jail sentence on *every* probationer who tests positive for drugs (Parent et al. 1994). The notion is that the offender will find the term disruptive to his normal life and be deterred from further drug use. Sanctions are gradually increased upon each subsequent failed drug test according to written department policy, and after three failed tests, the probationer is sent to prison. An evaluation of the program by the National Council on Crime and Delinquency (Baird, Wagner, and DeComo 1995) shows encouraging results in terms of increased offender participation in treatment and lowered recidivism while under supervision.

Unfortunately, debating the merits of these or other strategies is severely limited because we know so little about current probation practice. Assembling what is known about U.S. probation practices, so that public policy can be better informed, is the main purpose of this essay.

Together, the data in this essay show that probation is seriously underfunded relative to prisons—a policy that is not only short-sighted but also dangerous. Probationers in urban areas often receive little or no supervision, and the resulting recidivism rates are high for felons. But prison crowding has renewed interest in community-based sanctions, and recent evaluative evidence suggests that probation programs—properly designed and implemented—can be effective on a number of dimensions, including reducing recidivism.

There are several steps to achieving greater crime control over probationers. First, we must provide adequate financial resources to deliver programs that have been shown to work. Successful probation programs combine *both* treatment and surveillance and are targeted toward appropriate offender subgroups. Current evidence suggests that low-level drug offenders are prime candidates for enhanced probation programs. We must then work to garner more public support by convincing citizens that probation sanctions are punitive and convincing the judiciary that offenders will be held accountable for their behavior. Over time, probation will demonstrate its effectiveness, both in terms of reducing the human toll that imprisonment exacts on those incarcerated and reserving scarce resources to ensure that truly violent offenders remain in prison.

Section I begins by describing U.S. juvenile and adult probation data sources, explaining briefly why the topic has received relatively little attention. Section II presents a brief history of probation in the United States, highlighting important milestones. Section III summarizes probation in modern sentencing practice, discussing how the probation

decision is made, the preparation of the presentence investigation, and the setting and enforcement of probation conditions. This section also describes the organization and funding of U.S. probation departments. Section IV describes current probation population characteristics. It reviews the growth in probation populations and what is known about offenders' crimes, court-ordered conditions, and supervision requirements. It also presents data detailing how the granting of probation varies across jurisdictions. Section V is devoted to assessing probation outcomes, reviewing recidivism and alternative outcomes measures. Section VI outlines several steps to reviving probation and achieving greater crime control over probationers.

I. Sources of Probation Information

Probation receives little public scrutiny, not by intent but because the probation system is so complex and the data are scattered among hundreds of loosely connected agencies, each operating with a wide variety of rules and structures. The term "probation" has various meanings within multiple areas of corrections, and the volume and type of offenders on probation are quite large and varied. Whereas one agency may be required to serve juvenile, misdemeanor, and felony offenders, another agency may handle only one type of offender. In some locations, probation officers run detention facilities and day-reporting centers, and in still others they supervise pretrial offenders or even parolees and run school-based prevention programs.

Virtually all probation information is national in scope and collected by agencies within the Office of Justice Programs, U.S. Department of Justice. There are only a few states (e.g., Minnesota, Vermont, North Carolina) that collect more detailed data on probationers, and very few probation agencies maintain their own research units. As a result, most states cannot describe the demographic or crime characteristics of probationers under their supervision. For example, California—which supervises nearly 300,000 adult probationers—is unable to provide the gender, age, or crime convictions of its probationers to the annual probation survey carried out by the Bureau of Justice Statistics (Maguire and Pastore 1995).

A. *Juvenile Probationers*

Information on the number of youth placed on probation comes from the *Juvenile Court Statistics* series. This annual series collects information from all U.S. courts with juvenile jurisdiction. Sponsored by

the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and analyzed by the National Center for Juvenile Justice (NCJJ), it describes the numbers of youth granted probation, as well as their underlying crimes and demographic characteristics (see Butts et al. 1995).

In 1992, the OJJDP sponsored a nationwide survey of juvenile probation departments, collecting information on departments' size, organization, and caseload size. Results of this survey are contained in Hurst and Torbet (1993).

B. Adult Probationers

Nearly all existing national data describing adult probationers comes from two statistical series sponsored by the Bureau of Justice Statistics (BJS), the statistical arm of the U.S. Department of Justice (DOJ). The first series, *Correctional Populations in the United States*, collects annual counts and movements from all federal, state, and local adult probation agencies in the United States. Probationer information includes race, sex, and ethnicity, and the numbers on probation for felonies, misdemeanors, and driving while intoxicated. Data on the type of discharge are also obtained (i.e., successful completion, incarcerated). This information has been collected by the Department of Justice since the mid-1970s.

The second series is the *National Judicial Reporting Program* (NJRP), a biennial sample survey, which compiles information on the sentences that felons receive in state courts nationwide and on the characteristics of the felons. The latest information is reported in *State Court Sentencing of Convicted Felons, 1992* (Langan and Cohen 1996) and is based on a sample of 300 nationally representative counties. The information collected on convicted felons includes their age, race, gender, prior criminal record, length of sentence, and conviction offense.¹

Data on the organization of adult probation departments have been sporadically collected over the years by the National Institute of Justice (Comptroller General of the United States 1976; Nelson, Ohmart, and Harlow 1978; Allen, Carlson, and Parks 1979), the National Association of Criminal Justice Planners (Cunniff and Bergsmann 1990; Cunniff and Shilton 1991), the National Institute of Corrections (National Institute of Corrections 1993), and the Criminal Justice Institute (Camp and Camp 1995). The Criminal Justice Institute is a private,

¹ In 1992, BJS conducted the National Survey of Adults on Probation, the first-ever survey which will obtain detailed information on the backgrounds and characteristics of a national sample of probationers. The results will be available in spring 1997.

nonprofit organization that since 1990 has been publishing selected probation data in *The Corrections Yearbook: Probation and Parole*.

The National Institute of Justice (NIJ), the research arm of the U.S. Department of Justice, has sponsored nearly all of the basic and evaluation research conducted to date on adult probation. In recent years, these efforts have focused primarily on evaluating the effects of intermediate sanctions, programs that are more severe than routine probation but do not involve incarceration (for a review, see Tonry and Lynch 1996).

Beyond these minimal data, there is little systematic information on probation. We know almost nothing, for example, about the over 1 million adult misdemeanants who are placed on probation—what were their crimes, what services did probation provide, and how many are rearrested? And except for the studies mentioned above, we do not have that type of information about adult felons or juveniles either. There are serious gaps in our knowledge, and what does exist is not easily accessible or summarized.

II. The Origins and Evolution of Probation

To understand current probation practice, one must appreciate its historical roots. Probation in the United States began in 1841 with the innovative work of John Augustus, a Boston bootmaker who was the first to post bail for a man charged with being a common drunk under the authority of the Boston Police Court. Mr. Augustus was religious, a man of financial means, and had some experience working with alcoholics. When the man appeared before the judge for sentencing, Mr. Augustus asked the judge to defer sentencing for three weeks and release the man into Augustus's custody. At the end of this brief probationary period, the offender convinced the judge of his reform and therefore received a nominal fine. The concept of probation had been born (Dressler 1962).

From the beginning, the "helping" role of Augustus met with the scorn of law enforcement officials who wanted offenders punished, not helped. But Augustus persisted, and the court gradually accepted the notion that not all offenders needed to be incarcerated. During the next fifteen years (until his death in 1859), Augustus bailed out over 1,800 persons in the Boston courts, making himself liable to the extent of \$243,234 and preventing those individuals from being held in jail to await trial. Augustus is reported to have selected his candidates carefully, offering assistance "mainly to those who were indicted for their

first offense, and whose hearts were not wholly depraved, but gave promise of better things" (Augustus 1939). He provided his charges with aid in obtaining employment, an education, or a place to live, and also made an impartial report to the court.

Augustus reported great success with his charges, nearly all of whom were accused or convicted of violating Boston's vice or temperance laws. Of the first 1,100 offenders he discussed in his autobiography, he claimed only one had forfeited bond and asserted that, with help, most of them eventually led upright lives (Augustus 1939).

Buoyed by Augustus's example, Massachusetts quickly moved into the forefront of probation development. An experiment in providing children services (resembling probation) was inaugurated in 1869. In 1878, Massachusetts was the first state formally to adopt a probation law for juveniles. Concern for mitigating the harshness of penalties for children also led to the international development of probation (Hamai et al. 1995).

Public support for adult probation was much more difficult to come by. It was not until 1901 that New York passed the first statute authorizing probation for adult offenders, over twenty years after Massachusetts passed its law for juvenile probationers (Latessa and Allen 1997). By 1956, all states had adopted adult and juvenile probation laws.

John Augustus's early work provided the model for probation as we know it today. Virtually every basic practice of probation was conceived by him. He was the first person to use the term "probation"—which derives from the Latin term *probatio*, meaning a "period of proving or trial." He developed the ideas of the presentence investigation, supervision conditions, social casework, reports to the court, and revocation of probation. Unfortunately for such a visionary, Augustus died destitute (Dressler 1962).

Initially, probation officers were volunteers who, according to Augustus, needed to just have a good heart. Early probation volunteer officers were often drawn from Catholic, Protestant, and Jewish church groups. In addition, police were reassigned to function as probation officers while continuing to draw their pay as municipal employees. But as the concept spread and the number of persons arrested increased, the need for presentence investigations and other court investigations increased, and the volunteer probation officer was converted into a paid position (Dressler 1962). The new officers hired were drawn largely from the law enforcement community—retired sheriffs and policemen—and worked directly for the judge.

Gradually the role of court support and probation officer became

synonymous, and probation officers became “the eyes and ears of the local court.” As Rothman observed some years later, probation developed in the United States very haphazardly and with no real thought (Rothman 1980, p. 244). Missions were unclear and often contradictory, and from the start there was tension between the law enforcement and rehabilitation purposes of probation (McAnany, Thomson, and Fogel 1984). But most important, tasks were continually added to probation’s responsibilities, while funding remained constant or declined. A 1979 survey (Fitzharris 1979) found that probation departments were responsible for more than fifty different activities, including court-related civil functions (e.g., step-parent adoption investigations, minority age marriage investigations).

Between the 1950s and 1970s, U.S. probation evolved in relative obscurity. But a number of reports issued in the 1970s brought national attention to the inadequacy of probation services and their organization. The National Advisory Commission on Criminal Justice Standards and Goals (1973, p. 112) stated that probation was the “brightest hope for corrections” but was “failing to provide services and supervision.” In 1974, a widely publicized review of rehabilitation programs purportedly showed probation’s ineffectiveness (Martinson 1974), and two years later the U.S. Comptroller General’s Office released a report concluding that probation as currently practiced was a failure and that the U.S. probation systems were “in crisis” (Comptroller General of the United States 1976, p. 3). They urged that “since most offenders are sentenced to probation, probation systems must receive adequate resources. But something more fundamental is needed. The priority given to probation in the criminal justice system must be reevaluated” (Comptroller General of the United States 1976, p. 74).

In recent years, probation agencies have struggled—with continued meager resources—to upgrade services and supervision. Significant events in the development of U.S. probation are summarized in table 1. Important developments have included the widespread adoption of case classification systems and various types of intermediate sanctions (e.g., electronic monitoring, intensive supervision). These programs have had varied success in reducing recidivism, but the evaluations have been instructive in terms of future program design.

III. Probation and Modern Sentencing Practice

Anyone who is convicted, and many of those arrested, come into contact with the probation department. Probation officials, operating with a great deal of discretionary authority, significantly affect most subse-

TABLE 1
Significant Events in the Development of U.S. Probation

Year	Event
1841	John Augustus introduces probation in the United States in Boston.
1878	Massachusetts is first state to adopt probation for juveniles.
1878-1938	Thirty-seven states, the District of Columbia, and the federal government pass juvenile and adult probation laws.
1927	All states but Wyoming have juvenile probation laws.
1954	All states have juvenile probation laws.
1956	All states have adult probation laws (Mississippi becomes the last state to pass authorizing legislation).
1973	National Advisory Commission on Criminal Justice Standards and Goals endorses more extensive use of probation.
1973	Minnesota first state to adopt Community Corrections Act; 18 states follow by 1995.
1974	Martinson's widely publicized research purportedly proves that probation does not work.
1975	U.S. Department of Justice conducts the first census of U.S. probationers.
1975	Wisconsin implements first probation case classification system; American Probation and Parole founded.
1976	U.S. Comptroller General's study of U.S. probation concludes it is a "system in crisis" due to inadequate funding.
1982	Georgia's intensive supervision probation program claims to reduce recidivism and costs.
1983	Electronic monitoring of offenders begins in New Mexico, followed by larger program in Florida.
1985	RAND releases study of felony probationers showing high failure rates; replications follow, showing that probation services and effectiveness vary widely across nation.
1989	General Accounting Office survey shows all 50 states have adopted intensive probation and other intermediate sanction programs.
1991	U.S. Department of Justice funds nationwide intensive supervision demonstration and evaluation.
1993	Program evaluations show probation without adequate surveillance and treatment is ineffective, but well-managed and adequately funded programs reduce recidivism.

SOURCE.—Compiled by the author.

quent justice processing decisions. Their input affects not only the subsequent liberties offenders will enjoy, but their decisions influence public safety, since they recommend (within certain legal restraints) which offenders will be released back to their communities, and judges usually accept their sentence recommendations.

A. Probation's Influence throughout the Justice System

As figure 1 shows, probation officials are involved in decision making long before sentencing, often beginning from the time a crime comes to the attention of the police. They usually perform a personal investigation to determine whether a defendant will be released on his own recognizance or bail. Probation reports are the primary source of information the court uses to determine which cases will be deferred from formal prosecution. If deferred, probation officers will also supervise the diverted offender, and their recommendation will be primary to the decision whether the offender has successfully complied with the diversionary sentence and, hence, that no formal prosecution will occur.

For persons who violate court-ordered conditions, probation officers are responsible for deciding which violations will be brought to the court's attention and what subsequent sanctions to recommend. When the court grants probation, probation staff have considerable discretion about which court-ordered conditions to enforce and monitor. And even when an offender goes to prison, the offender's initial security classification (and eligibility for parole) will be based on information contained in the presentence investigation. Finally, when the offender is released from jail or prison, probation staff often provide his or her community supervision.

No other justice agency is as extensively involved with the offender and his case as is the probation department. Every other agency completes its work and hands the case over to the next decision maker. For example, the police arrest offenders and hand them over to the prosecutor who files charges and then hands them to the judge who sentences and then transfers them to the prison authorities who confine—but the probation department interacts with all of these agencies, provides data that influence each of their processing decisions, and takes charge of the offender's supervision at any point when the system decides to return the offender to the community (of course, for parolees, parole officers usually assume this function). Figure 1 highlights the involvement of probation agencies throughout the justice system, showing its integral role to custody and supervision.

B. The Presentence Investigation Report

When most people think of probation, they think of its *supervision* function. But providing law enforcement agencies and the courts with necessary information to make key processing decisions is the other

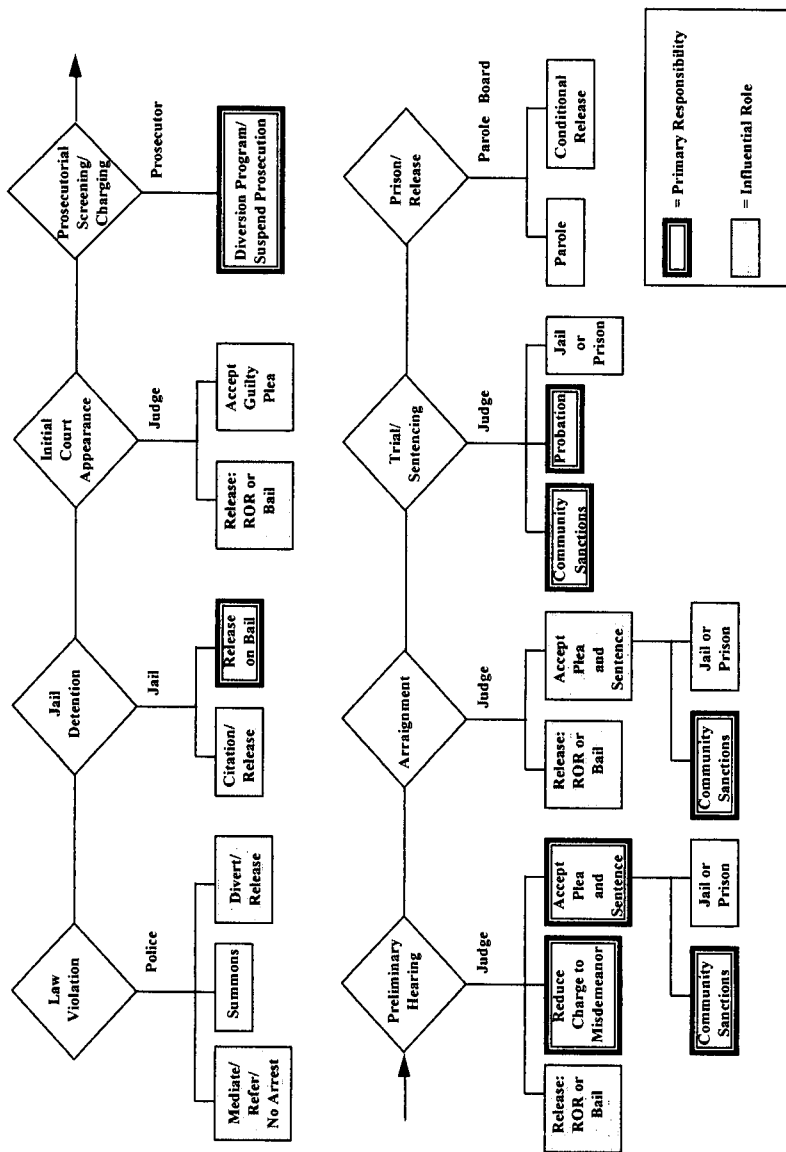


Fig. 1.—Probation's involvement in the criminal justice system. Source.—Adapted from Wilkinson (1995).

major function of probation, commonly referred to as probation's *investigation* function.

From the point of arrest, information about the offender's crime and criminal background is accumulated and eventually presented to the court if the case proceeds through prosecution and sentencing. This formal document is known as the presentence investigation (PSI) or presentence report (PSR).

The PSI is a critically important document, since over 90 percent of all felony cases in the United States are eventually resolved through a negotiated plea (Bureau of Justice Statistics 1995), and the court's major decision is whether imprisonment will be imposed. A survey by the National Institute of Corrections found that half of all states require a PSI in all felony cases; the PSI is discretionary for felonies in another sixteen states. Only two states require a PSI prior to disposition in misdemeanor cases (National Institute of Corrections 1993). Where PSIs are discretionary, the option of requesting them usually rests with the courts.

Research has repeatedly shown that the judge's knowledge of the defendant is usually limited to the information contained in the PSI and, as a result, there is a high correlation between the probation officer's recommendation and the judge's sentence. Research by the American Justice Institute (1981), for example, using samples from representative probation departments throughout the United States, found that recommendations for probation were adopted by the sentencing judge between 66 and 95 percent of the time.

The PSI typically includes information on the seriousness of the crime, the defendant's risk, the defendant's circumstances, a summary of the legally permissible sentencing options, and a recommendation for or against prison. If recommending prison, the PSI recommends sentence length; and if recommending probation, the PSI recommends sentence length and the conditions to be imposed.

Some have noted that the introduction of sentencing guidelines—which require calculations based on details of the crime and prior criminal record—have increased the importance of the PSI and the role and responsibility of the probation officer, particularly at the federal level (McDonald and Carlson 1993).

While the PSI is initially prepared to aid the sentencing judge, once prepared it becomes a critically important document to justice officials throughout the system, as well as the basis of most criminological research studies. As Abadinsky noted, its most common uses are serving

as the basis for the initial risk/needs classification probation officers use to assign an offender to a supervision caseload and treatment plan, assisting jail and prison personnel in their classification and treatment programs, furnishing parole authorities with information pertinent to consideration for parole and release planning, and providing a source of information for research studies (Abadinsky 1997, p. 105).

C. Factors Influencing Who Gets Probation versus Prison

The most important purpose of the PSI is to assist in making the prison/probation decision. Generally speaking, the more serious the offender, the greater likelihood of a prison term. But exactly what crime and offender characteristics are used by the court to assess "seriousness?"

Petersilia and Turner (1986) analyzed the criminal records and case files of approximately 16,500 males convicted of selected felony crimes in one of seventeen California counties in 1980. We coded detailed information about the offenders' crimes, criminal backgrounds, and how their cases were processed (e.g., private or public attorney). The purpose was to identify the factors that distinguished who was granted probation (with or without a jail term) and who was sentenced to prison among offenders convicted under the same penal code section, in the same county, and in the same year. We found that an offender was more likely to receive a prison sentence if he had two or more conviction counts (i.e., convicted of multiple charges), had two or more prior criminal convictions, was on probation or parole at the time of the arrest, was a drug addict, used a weapon during the commission of the offense, or seriously injured the victim.

For all offenses except assault, offenders having three or more of these characteristics had an 80 percent or greater probability of going to prison in California, regardless of the type of crime of which they were currently convicted (Petersilia and Turner 1986).

After controlling for these "basic factors," the researchers also found that having a private (vs. public) attorney could reduce a defendant's chances of imprisonment (this was true except for drug cases, where attorney type made no difference). Obtaining pretrial release also lessened the probability of going to prison, whereas going to trial increased that probability (Petersilia and Turner 1986, p. xi).

But while such factors predicted about 75 percent of the sentencing decisions in the study, they did not explain the remainder. Thus, Petersilia and Turner (1986) concluded that in about 25 percent of the

cases studied, those persons sent to prison could not be effectively distinguished in terms of their crimes or criminal backgrounds from those receiving probation. These data suggest that many offenders who are granted felony probation are indistinguishable in terms of their crimes or criminal record from those who are imprisoned (or vice versa).

D. Setting and Enforcing Probation Conditions

For offenders granted probation, the court decides what conditions will be included in the probation contract between the offender and the court. In practice, when sentencing an offender to probation, judges often combine the probation term with a suspended sentence, under which the judge sentences a defendant to prison or jail and then suspends the sentence in favor of probation. In this way, the jail or prison term has been legally imposed but is held in abeyance to be reinstated if the offender fails to abide by the probation conditions (Latessa and Allen 1997). Offenders are presumed to be more motivated to comply with conditions of probation by knowing what awaits should they fail to do so.

In addition to deciding whether to impose a sentence of incarceration and then "suspend" it in favor of probation (or sentence to probation directly), the judge makes a number of other highly important, but discretionary, decisions. He must decide whether to impose a jail term along with probation. This is commonly referred to as "split sentencing"; nationally, probation is combined with a jail term in 26 percent of felony cases (Langan and Cohen 1996). Some states use split sentencing more frequently. For example, 60 percent of persons sentenced to probation in Minnesota are required to serve some jail time (Minnesota Sentencing Guidelines Commission 1996), as are nearly 80 percent of felons in California (California Department of Justice 1995). The average jail sentence for felony probationers is seven months, while the average length of felony probation is forty-seven months (Bureau of Justice Statistics 1995).

It is the judge's responsibility to enumerate the conditions the probationer must abide by in order to remain in the community. The conditions are usually recommended by probation officers and contained in the PSI. But they may also be designed by the judge, and judges are generally free to construct any terms of probation they deem necessary. Judges also often authorize the setting of "such other conditions as the probation officer may deem proper to impose" or may leave the

mode of implementation of a condition (such as method of treatment) to the discretion of the probation officer.

The judge's (and probation officer's) required conditions usually fall into one of three realms. *Standard conditions* imposed on all probationers include such requirements as reporting to the probation office, notifying the agency of any change of address, remaining gainfully employed, and not leaving the jurisdiction without permission. *Punitive conditions* are usually established to reflect the seriousness of the offense and increase the intrusiveness and burdensomeness of probation. Examples are fines, community service, victim restitution, house arrest, and drug testing. *Treatment conditions* are imposed to force probationers to deal with a significant problem or need, such as substance abuse, family counseling, or vocational training.

The U.S. Supreme Court has held that probation should not be considered a form of "prison without walls" but, rather, a period of conditional liberty that is protected by due process (McShane and Krause 1993, p. 93). In that vein, the courts have ruled that probation conditions must not infringe on the basic rights of the person being supervised. Case law has established that there are four general elements in establishing the legal validity of a probation condition. Each imposed probation condition must serve a *legitimate purpose*—must either protect society or lead to the rehabilitation of the offender; must be *clear*—with language that is explicit, outlining specifically what can or cannot be done so that the average person can know exactly what is expected; must be *reasonable*—not excessive in its expectations; and must be *constitutional*—while probationers do have a diminished expectation of certain privileges, they retain basic human freedoms such as religion, speech, and marriage.

In legal terms, the probation conditions form a contract between the offender and the court.² The contract, at least theoretically, states the conditions the offender must abide by to remain in the community. The court requires that the probation officer provide the defendant with a written statement setting forth all the conditions to which the sentence is subject. The offender signs the contract, and the probation officer is the contract's "enforcer," responsible for notifying the court when the contract is not being fulfilled.

² An excellent discussion of the legal bases for probation and enforcing probation conditions can be found in Klein (1997).

Should a defendant violate a probation condition at any time prior to the expiration of his term, the court may, after a hearing pursuant to certain rules (which include written notification of charges), continue him on probation, with or without extending the term or modifying or enlarging the conditions, or revoke probation and impose any other sentence that was available at the initial sentencing (e.g., prison or jail).

As mentioned previously, a suspended sentence is often imposed along with probation, and on revocation the judge may order the original sentence carried out. When a suspended sentence is reinstated, the judge may decide to give credit for probation time already served or may require that the complete original incarceration term be served.

Over the years, the proportion of probationers subject to special conditions has increased (Clear 1994). The public's more punitive mood, combined with availability of inexpensive drug testing and a higher number of probationers having substance abuse problems, contribute to the increased number of conditions imposed. More and more stringent conditions increase the chances of failure (Petersilia and Turner 1993). According to BJS, the percentage of offenders successfully completing their probation terms is falling. In 1986, 74 percent of those who exited probation successfully completed their terms; in 1992, the figure was 67 percent, and by 1994, it had dropped to 60 percent (Langan 1996).

Langan and Cuniff's (1992) study of felons on probation showed that 55 percent of the offenders had some special condition (beyond the standard conditions) added to their probation terms (shown in fig. 2), the most common being drug testing. Further analysis by Langan (1994) showed that many probationers failed to satisfy their probation-ordered conditions. He found that half of probationers simply did not comply with the court-ordered terms of their probation, and only 50 percent of known violators went to jail or prison for their noncompliance. Langan concluded (1994, p. 791) that "sanctions are not vigorously enforced."

Taxman and Byrne (1994), reanalyzing a national sample of felons placed on probation and tracked by BJS for two years (Dawson 1990), discovered that even probation absconders (i.e., those who fail to report) often are not punished. They found that, on any one day, about 10–20 percent of adult felony probationers were on abscond status, their whereabouts unknown. While warrants were usually issued for

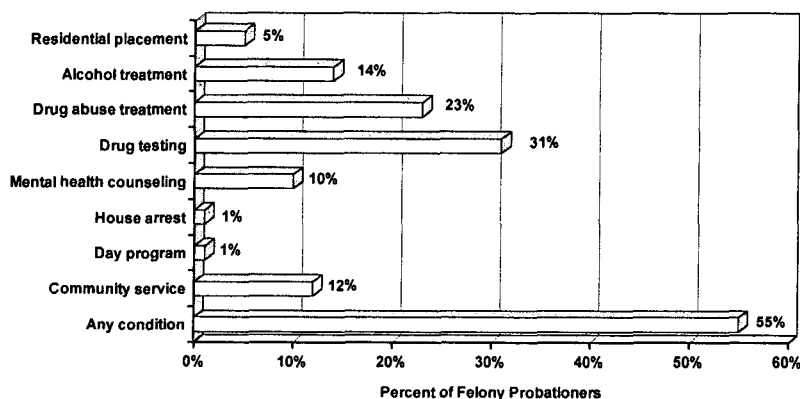


FIG. 2.—Special conditions imposed on adult felony probationers. Source.—Langan and Cuniff (1992).

their arrest, no agency actively invests time finding the offenders and serving the warrants. They concluded that, practically speaking, as long as they are not rearrested, offenders are not violated.

Even though many court-ordered conditions are not actively enforced, the probation population is so large that revoking even a few percent of them or revoking all those who are rearrested can have a dramatic impact on prison admissions. Current estimates are that between 30 and 50 percent of all new prison admissions are probation and parole failures (Parent et al. 1994). Texas, for example, reported that approximately two-thirds of all prison admissions in 1993 were either probation or parole violators. In Oregon, the figure was over 80 percent and in California over 60 percent (Parent et al. 1994).³

Due to the scarcity of prison beds, policy makers have begun to wonder whether revoking probationers and parolees for technical violations (i.e., infractions of conditions, rather than for a new crime) makes sense. While it is important to take some action when probation violations are discovered, it is not obvious that prison is always the best response.

Several states, trying to reserve prison beds for violent offenders, are now structuring the courts' responses to technical violations. Missis-

³ California reports that more than 60 percent of its prison admissions each year are probation and parole violators, but a recent analysis by Petersilia (1995a) found that "true" technical violators (those returned for rule infractions rather than new crimes) made up only 4 percent of total admissions in 1991.

issippi and Georgia use ninety-day boot camp programs housed in separate wings of the state prison for probation violators (Grubbs 1993; Prevost, Rhine, and Jackson 1993). While empirical evidence is scant as to the effects of these programs, many officials believe that the programs increase the certainty of punishment, while reserving scarce prison space for the truly violent (Rhine 1993).

E. Probation Caseloads and Contact Levels

The most common measure of probation's workload is caseload size—the number of offenders assigned to each probation officer. Published reports normally divide the number of probation department employees or line officers by the number of adult probationers under supervision to indicate average caseload size. Over the years probation caseloads have grown from what was thought in the mid-1970s to be an ideal size of 30:1 (President's Commission on Law Enforcement and Administration of Justice 1967) to the early 1990s, when the average adult regular supervision caseload is reported to be 117:1 (Camp and Camp 1995).

The adult figure is misleading and vastly overstates the number of officers available for offender supervision. First, as Cuniff and Bergsmann showed, not all probation employees or even line officers are assigned to offender supervision. Cuniff and Bergsmann (1990) found that in a typical U.S. probation department only 52 percent of staff are line officers; 48 percent are clerical, support staff, and management. Such high clerical staffing (23 percent) is required because a third to a half of all clerical personnel type PSIs for the court. Of line probation officers, *only about 17 percent of them supervise adult felons*. The remaining officers supervise juveniles (half of all U.S. adult probation departments also have responsibility for supervising juveniles), and 11 percent prepare PSIs. These figures were nearly identical to those found in the NIC national survey of probation departments (National Institute of Corrections 1993).

There were an estimated 50,000 probation employees in 1994 (Camp and Camp 1995). If 23 percent of them (or 11,500 officers) were supervising 2,962,166 adult probationers, then the average U.S. adult probation caseload in 1994 was 258 offenders per line officer.

A recent survey (Thomas 1993) of juvenile probation officers responsible for supervision showed that U.S. juvenile caseloads range between two and 200 cases, with a typical (median) active caseload of

TABLE 2
Felony Probationers' Initial Supervision Levels

Supervision Level	Prescribed Number of Contacts	Percent of Caseload
Intensive	9 per month	10
Maximum	3 per month	32
Medium	1 per month	37
Minimum	1 per 3 months	12
Administrative	None required	9

SOURCE.—Langan and Cuniff 1992.

forty-one. The optimal caseload suggested by juvenile probation officers was thirty cases.

Of course, offenders are not supervised on "average" caseloads. Rather, probation staff use a variety of risk and needs classification instruments to identify offenders needing more intensive supervision or services. Developing these "risk/need" classification devices occupied probation personnel throughout the 1970s, and their use is now routine throughout the United States (for a review, see Clear 1988). Unfortunately, while risk assessments can identify offenders more likely to reoffend, funds are usually insufficient to implement the levels of supervision predicted by classification instruments (Jones 1996).

Recent BJS data show that 95 percent of all U.S. adult probationers are supervised on regular caseloads, about 4 percent are on intensive supervision, and about 1 percent are on specialized caseloads such as electronic monitoring or boot camps (Brown et al. 1996). Again, however, these numbers do not tell much about the actual contact levels received by felons. The best data on this subject come from the Langan and Cuniff (1992) study tracking felony probationers. They report that about 10 percent of *felony* probationers are placed on intensive caseloads, for which administrative guidelines suggest probation officers should have contact with probationers nine times per month (table 2). The authors note that the initial classification level does not necessarily mean that offenders received that level of service but, rather, that they were assigned to a caseload having that administrative standard.

The Langan and Cuniff (1992) study also provides information on supervision levels relative to conviction crimes and county of conviction. They report that across all the sites and felony crimes studied,

about 20 percent of adult felony probationers are assigned to caseloads requiring *no* personal contact.

In large urban counties the situation is particularly acute and the average caseload size noted above does not convey the seriousness of the situation. Consider, for example, the Los Angeles County Probation Department, the largest probation department in the world. In 1995, its 900 line officers were responsible for supervising 88,000 adult and juvenile offenders. Since the mid-1970s, county officials have repeatedly cut the agency's budget, while the number of persons granted probation and the number of required presentence investigations have grown (Nidorf 1996).

As a result, 66 percent of all probationers in Los Angeles in 1995 were supervised on "automated" or banked caseloads (Petersilia 1995*b*)—no services, supervision, or personal contacts are provided. Probationers are simply required to send in a preaddressed postcard once or twice a month reporting on their activities. A more detailed study found that nearly 10,000 violent offenders (convicted of murder, rape, assault, kidnap, and robbery) are being supervised on any given day by probation officers in Los Angeles, and half are on "automated minimum" caseloads with no reporting requirements (Los Angeles County Planning Committee 1996).

F. The Organization of Probation

Probation is administered by more than 2,000 separate agencies, and there is no uniform structure (Abadinsky 1997). Probation is a state and local activity with the federal government providing technical support, data gathering, and funding for innovative programs and their evaluation. As the National Institute of Corrections (NIC) recently observed, "Probation was established in nearly as many patterns as there are states, and they have since been modified by forces unique to each state and each locality" (1993, p. v). The result is that probation services in the United States differ in terms of whether they are delivered by the executive or the judicial branch of government, how services are funded, and whether probation services are primarily a state or a local function. While a detailed discussion of these issues is beyond the scope of this essay, interested readers are referred to the NIC (1993) report *State and Local Probation Systems in the United States: A Survey of Current Practice*.

1. *Centralized or Decentralized Probation?* The centralization issue concerns the location of authority to administer probation services.

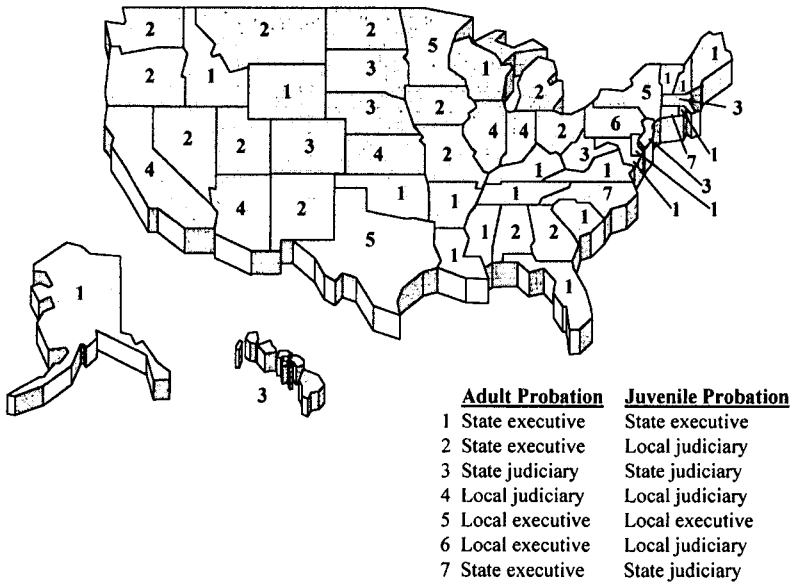


FIG. 3.—Jurisdictional arrangements for probation, by state. Source.—American Correctional Association (1995).

Proponents of probation argue that judicially administered probation (usually on a county level) promotes diversity. Nelson et al. (1978) suggest that an agency administered by a city or county instead of a state is smaller, more flexible, and better able to respond to the unique problems of the community. And because decentralized probation draws its support from its community and local government, it can offer more appropriate supervision for its clients and make better use of existing resources. It is also argued that if the state took over probation it might be assigned a lower level of priority than if it remained a local, judicially controlled service.

Over time adult probation services moved from the judicial to the executive branch and are now located in the judicial branch in only one-quarter of the states (see fig. 3). However, more than half of the agencies providing juvenile probation services are administered on the local level. (Fortunately, parole administration is much less complex: one agency per state and always in the executive branch.)

The trend in adult probation is toward centralization, with authority for a state's probation activities placed in a single statewide administra-

tive body (National Institute of Corrections 1993). In 1996, three-quarters of all states located adult probation in the executive branch, where services and funding were centralized. Proponents of this approach assert that all other human services and correctional subsystems are located within the executive branch; program budgeting can be better coordinated; and judges, trained in law, not administration, are not well equipped to administer probation services (Abadinsky 1997, p. 35). Even in those states with county-based probation systems, states have usually created an oversight agency for better coordination and consistency of services—California is currently the only state operating probation locally without a state oversight agency (Parent et al. 1994).

As Clear and Cole (1997) point out, there is no optimal probation organization. In jurisdictions with a tradition of strong and effective local probation programming, decentralized services make sense. In states that typically have provided services through centralized, large-scale bureaucracies, perhaps probation should be part of such services. As probation receives greater attention—and its services and supervision are more closely scrutinized—the issue of who oversees probation and who is responsible for standards, training, and revocation policy will become central in the years ahead.

2. *Probation Funding.* Probation funding has long been recognized as woefully inadequate.

a. *State versus County Funding.* While states have become more willing to fund probation, counties still provide primary funding for probation in twelve states, although some of these agencies also receive significant state support. In NIC's 1993 survey, California counties received the least amount of state assistance, ranging from a low of 9 percent in Los Angeles and San Diego to a high of 14 percent in San Francisco. Counties in Texas received some of the largest shares of state assistance (Dallas received 50 percent of its operating budget from the state) (National Institute of Corrections 1993).

Some states have used other means to upgrade the quality of probation services and funding. Community Corrections Acts (CCAs) are mechanisms by which state funds are granted to local governments to foster local sanctions to be used in lieu of state prison. By 1995 eighteen states had enacted CCAs, and the evidence suggests that CCAs have encouraged some good local probation programs but have been less successful at reducing commitments to state prison or improving

coordination of state and local programs (Parent 1995; Shilton 1995). Still, interest in the CCA concept—and other state “subsidies” to upgrade probation—is growing across the United States.

Arizona probation probably has the best current system. In 1987, the state legislature established a statutory standard that felony probation caseloads not exceed sixty offenders to one probation officer. And state funding was allocated to maintain that level of service. As a result, probation departments in Arizona are nationally recognized to be among the best, providing their offenders with both strict surveillance and needed treatment services.

b. *Annual Costs per Probationer.* The *Corrections Yearbook* reports that the annual amount spent for probationers on supervision in the United States ranged from \$156 in Connecticut to \$1,500 in the federal system. The average of the forty-four reporting states was \$584 per probationer, per year (Camp and Camp 1995). But such numbers are nearly meaningless since we do not know what factors were considered in calculating them. One system may compute the average cost per offender per day on the basis of services rendered and officers’ salaries, while others may divide the total operating budget by the number of clients served. Still others may figure into the equation the costs of various private contracts for treatment and drug testing. There is no standard formula for computing probationer costs, but funds are known to be inadequate.

Since its beginnings, probation has continually been asked to take on greater numbers of probationers and conduct a greater number of presentence investigations, all while experiencing stable or declining funding. As Clear and Braga recently observed: “Apparently, community supervision has been seen as a kind of elastic resource that could handle whatever numbers of offenders the system required it to” (Clear and Braga 1995, p. 423).

From 1977 to 1990, prison, jail, parole, and probation populations all about tripled in size. Yet only spending for prisons and jails increased. In 1990, prison and jail spending accounted for two cents of every state and local dollar spent—twice the amount spent in 1977. Spending for probation and parole accounted for two-tenths of one cent of every dollar spent in 1990—unchanged from 1977 (Langan 1994). Today, although two-thirds of all persons convicted are handled in the community, only about one-tenth of the correctional budget goes to supervise them.

c. *Fines and Fees.* As conditions of probation, many jurisdictions

are including various offender-imposed fees which, when collected, are used to support the probation department. Fees are levied for a variety of services, including the preparation of presentence reports, electronic monitoring, work release programs, drug counseling, and regular probation supervision. By 1992, more than half of the states allowed probation departments to charge fees to probationers, ranging from \$10 to \$40 per month, usually with a sliding scale for those unable to pay (Finn and Parent 1992).

Finn and Parent (1992) in an NIJ study of fines found that despite a common perception of the criminal as penniless and unemployable, most offenders on probation who have committed misdemeanors—and even many who have committed felonies—can afford modest monthly supervision fees. Texas, for example, has been highly successful in generating probation fees. Probationers there are required to pay a standard monthly fee of \$10 plus \$5 for the victims' fund. In 1990, Texas probation agencies spent about \$106 million to supervise probationers but collected more than \$57 million in fees—about one-half the cost of basic probation supervision (Finn and Parent 1992, p. 12).

Taxpayers applaud such efforts, and they may also teach offenders personal responsibility, but the practice causes dilemmas concerning whether to revoke probation for nonpayment. The courts have ruled that probation cannot be revoked when an indigent offender has not paid his fees or restitution (*Bearden v. Georgia* 1983).

IV. Who Is on Probation?

Probation was never intended to serve as a major criminal sanction. It was designed for first-time offenders who were not deeply involved in crime and for whom individualized treatment and casework could make a difference. But, as shown below, things have changed considerably.

A. Profile of Persons Placed on Probation

The Bureau of Justice Statistics recently reported that U.S. judges sentence 80 percent of adults convicted of misdemeanors to probation or probation with jail and about 60 percent of adults convicted of felonies—or fully two-thirds of all persons convicted of a crime (Bureau of Justice Statistics 1996a). As a result, BJS estimated that a record number of 3,096,529 adults were on probation at year end 1995, an increase of 4 percent over the previous year (see fig. 4).

Figure 4 also shows a consistent 3:1 ratio between probationers and

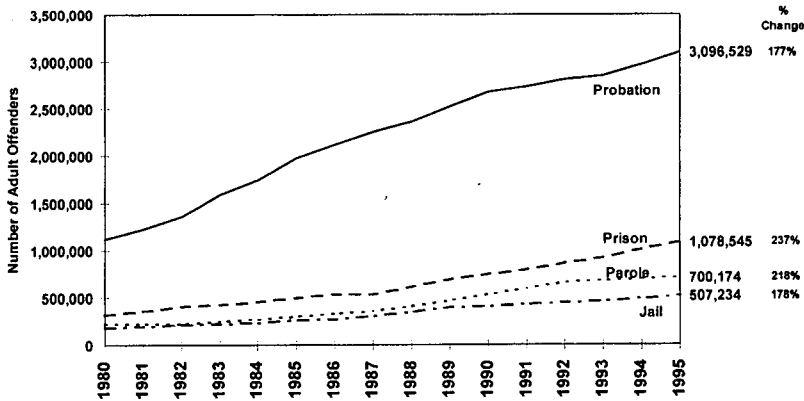


FIG. 4.—Adults in prison, jail, probation, parole, 1980–95. Source.—Bureau of Justice Statistics (1996b).

prisoners over the past decade. An interesting recent analysis by Zvekcic (1996) shows that the United States and other Western European countries' preference for probation compared with prison is not shared by some other countries, most notably Japan, Israel, and Scotland. For example, the ratio of imprisonment to probation in Japan is 4:1.

The Bureau of Justice Statistics also reports that the southern U.S. states generally have the highest per capita ratio of probationers—reporting 1,846 probationers per 100,000 adults at year end 1995 (Bureau of Justice Statistics 1996a). In terms of sheer numbers of probationers, Texas has the largest adult probation population (about 396,000), followed by California (about 277,000). In Texas, 3.1 percent of all adults were on probation at year end 1995 (Bureau of Justice Statistics 1996a).

If probation were being used primarily as an alternative to incarceration, one might expect to find that the states that imposed more probationary sentences would have lower than average incarceration rates and vice versa. This is not the case. Generally, states with a relatively high per capita imprisonment rate also have a relatively high per capita use of probation. Texas, for example, had the highest state imprisonment rate in the nation in 1995 (Bureau of Justice Statistics 1996b) and the highest rate of probation impositions. Similarly, Southern states generally place persons on probation at a high rate, and they also generally incarcerate more than the rest of the nation (Klein 1997).

Half of all offenders on probation in 1995 had been convicted of a

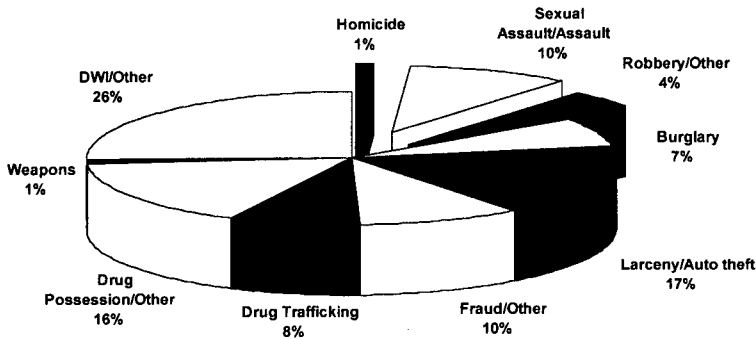


FIG. 5.—Adults on probation by conviction crime type. Source.—Bureau of Justice Statistics (1992).

felony and a quarter of a misdemeanor. One in every six had been convicted of driving while intoxicated—which could be either a felony or misdemeanor (Bureau of Justice Statistics 1996a).

The average age of adult state probationers nationwide in 1995 was twenty-nine years; women made up 21 percent of the nation's probationers, a larger proportion than for any other correctional population. Approximately 64 percent of adults on probation were white, and 34 percent were black. Hispanics, who may be of any race, represented 14 percent of probationers (Bureau of Justice Statistics 1996a). These percentages have remained relatively constant since BJS began collecting the data in 1978 (Langan 1996).

While BJS does not routinely collect data on the conviction crimes of probationers, such information was obtained for a nationally representative sample of adult probationers (felons and misdemeanors combined) (Bureau of Justice Statistics 1992). The conviction crimes of adult probationers are shown in figure 5.

While we know less about the characteristics of juvenile probationers, Butts et al. (1995) report that 35 percent (520,500) of all formally and informally handled delinquency cases disposed by juvenile courts in 1993 resulted in probation. Probation was the most severe disposition in over half (56 percent) of adjudicated delinquency cases, with annual proportions remaining constant for the five-year period 1989–93.

Figure 6 shows the growth in juvenile probation populations, as well as their underlying offenses. It is important to remember that this growth in juvenile probation populations has occurred even though a

greater number of serious juveniles are being waived to adult court for prosecution and sentencing (Butts et al. 1995). Judicial waivers increased 68 percent between 1988 and 1992, although waivers to adult court are estimated to be less than 2 percent of all cases filed in juvenile court (Howell, Krisberg, and Jones 1993).

B. The Variability and Prevalence of Probation Sentencing

The decision to grant probation is highly discretionary within certain legal boundaries, and practices vary considerably within and among states. Cuniff and Shilton (1991), in a study of over 12,000 cases sentenced to probation in 1986 in thirty-two large jurisdictions, found that the percent of all sentences involving probation in the participating jurisdictions ranged from 30 percent in New York County (Manhattan) to 75 percent in Hennepin County (Minneapolis).

Cuniff and Shilton (1991) suggest that some of the variation is due to sentencing laws under which these jurisdictions function and their justice environments. They report that courts in determinate sentencing states (with no parole board) tend to use probation more frequently than courts in indeterminate sentencing states (with parole boards). Presumably, in indeterminate states, parole boards will release the less serious and less dangerous offenders—thus reducing length of prison time served for less serious offenders early. But in determinate sentencing states, prison terms are fixed and parole boards have little ability to reduce the lengths of stay courts impose. Apparently, judges are

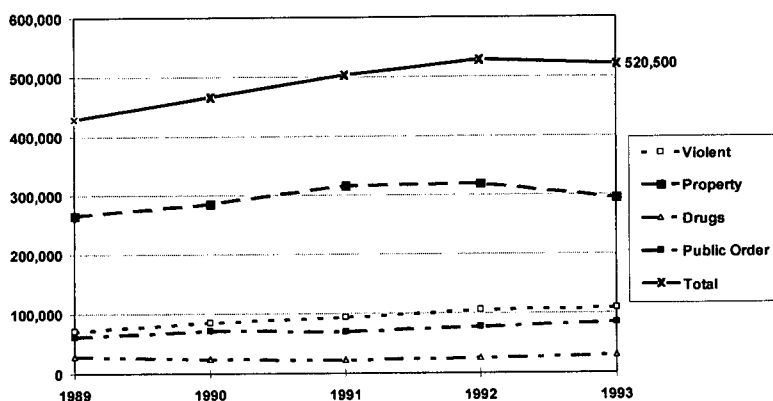


FIG. 6.—Number of juveniles in the United States sentenced to probation, by year and crime. Source.—Butts et al. (1995).

less willing to sentence to prison when lengths of sentences are fixed.

Studies have also shown that judges are more willing to place felons on probation when they perceive that the probation department can monitor the offender closely and that community resources are sufficient to address some of the offender's underlying problems (Frank, Cullen, and Cullen 1987). Minnesota, Washington, and Arizona—the three states identified by Cuniff and Shilton (1991) as using probation most frequently—are well known for delivering good probation supervision and having adequate resources to provide treatment and services.

Some of the variability in granting probation, however, must also be due to the underlying distributions of offense categories within these jurisdictions. For example, it may be that the robberies committed in one location are much less serious than those committed in another. However, reanalysis of a data set collected by RAND researchers, where offense seriousness was statistically controlled, still revealed a wide disparity among jurisdictions in their use of straight probation (i.e., without a jail term). Klein and his colleagues examined adjudication outcomes of defendants from fourteen large urban jurisdictions across the country in 1986; all of the defendants were charged with stranger-to-stranger armed robberies and residential burglaries (Klein et al. 1991). The granting of straight probation, even for felons convicted of similar crimes, varied substantially across the nation, particularly for burglary (see fig. 7). The figures for the California counties are particularly low because California commonly uses split sentences (probation plus jail) for felony crimes.

This demonstrated variability in the granting of probation is important, as it suggests that the underlying probation population and the services they need and supervision risks they pose are vastly different, depending on the jurisdiction studied.

As noted above, states vary considerably in their usage of probation. The main reason is that there are no national guidelines for granting probation or limiting its use. Rather, generally speaking, the court is supposed to grant probation when the defendant does not pose a risk to society or need correctional supervision, and if the granting of probation would not underrate the seriousness of the crime (American Bar Association 1970). Until recently, in most states those broad guidelines were interpreted with great variability.

States have, however, recently been redefining categories of offense that render an offender ineligible for probation and identifying offend-

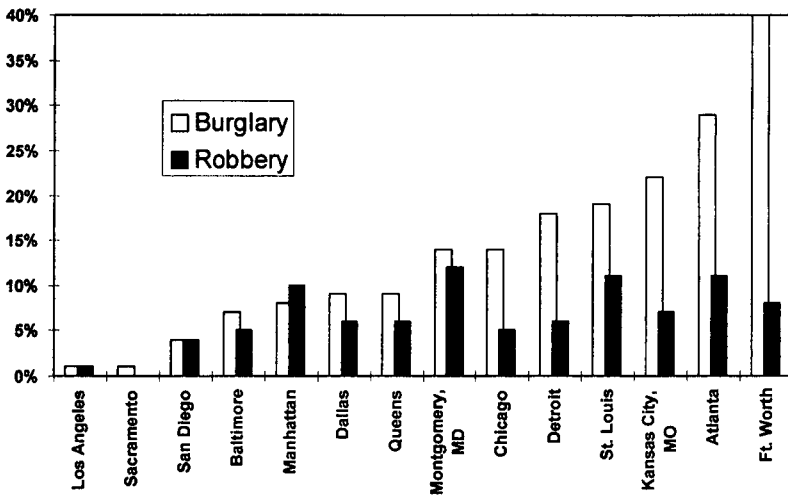


FIG. 7.—Percent of convicted residential burglars and armed robbers granted straight probation. Source.—Klein et al. (1991).

ers who are low risk and *should* be sentenced to probation. Recent mandatory sentencing laws such as “three strikes and you’re out” have been motivated, in large part, by a desire to limit judicial discretion and the court’s ability to grant probation to repeat offenders (Greenwood et al. 1994).

The public perceives that the justice system is too lenient, and when certain statistics are publicized, it appears that way. But, as in other matters involving justice data, the truth is more complicated, and it all depends on which populations are included in the summary statistics.

Roughly two-thirds of all adult convicted felons are granted probation. Hence, the common observation that “probation is our nation’s most common sentence.” Many use this finding to characterize U.S. sentencing practices as lenient (Bell and Bennett 1996). But felony probation terms typically include jail, particularly for offenses against persons. The BJS recently reported that overall 71 percent of convicted felons were sentenced to incarceration in a state prison or local jail, and just 29 percent were sentenced to straight probation (see table 3).

V. Does Probation Work?

The most common question asked about probation is, “Does it work?” And, by “work” most mean whether the person granted probation has

TABLE 3
Felony Sentences Imposed by State and Federal Courts, by Offense,
United States, 1990 (%)

Most Serious Conviction Offense	% of Felons Sentenced to:				
	Total	Incarceration			Straight Probation
		Total	Prison	Jail	
Violent offenses:					
Murder/manslaughter	100	95	91	4	5
Rape	100	86	67	19	14
Robbery	100	90	74	16	10
Aggravated assault	100	72	45	27	26
Other violent offenses	100	67	42	25	33
Property offenses:					
Burglary	100	75	54	21	25
Larceny	100	64	39	25	36
Motor vehicle theft	100	75	46	29	25
Other theft	100	62	38	24	38
Fraud/forgery	100	52	32	20	48
Fraud	100	46	25	21	54
Forgery	100	59	40	19	41
Drug offenses:					
Possession	100	64	35	29	36
Trafficking	100	77	51	26	23
All offenses	100	71	46	25	29

SOURCE.—Langan and Perkins (1994).

NOTE.—For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed—prison being the most severe, followed by jail, then probation.

refrained from further crime or reduced his or her recidivism. Recidivism is currently the primary outcome measure for probation, as it is for all corrections programs.

A. Offender Recidivism

We have no national information on the overall recidivism rates of juvenile probationers, and we know only the “completion rates” for adult misdemeanants. This omission is very important to note, since summaries of probation effectiveness usually report the recidivism rates of *felons* as if they represented the total of the probation population, and adult felons make up only 42 percent of the total probation population (Maguire and Pastore 1995). Failure to make this distinc-

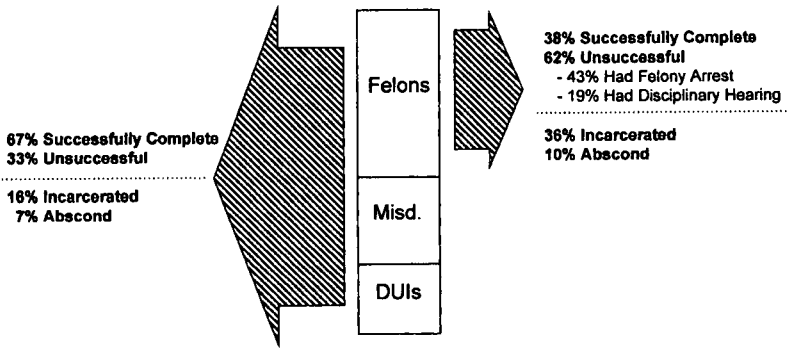


FIG. 8.—Adult probation recidivism outcomes. Sources.—Bureau of Justice Statistics (1992, 1995).

tion is why profoundly different assessments have been offered as to whether probation “works.”

For example, a recent review of community corrections by Clear and Braga suggests that adult probation is very successful. They write: “Studies show that up to 80 percent of all probationers complete their terms without a new arrest” (Clear and Braga 1995, p. 430). But Langan and Cuniff, summarizing data from the same source, conclude: “Within 3 years of sentencing, while still on probation, 43 percent of these felons were rearrested for a crime within the state. Half of the arrests were for a violent crime (murder, rape, robbery, or aggravated assault) or a drug offense (drug trafficking or drug possession). The estimates (of recidivism) would have been higher had out-of-state arrests been included” (Langan and Cuniff 1992, p. 5).

How can these respected scholars summarize the evidence so differently? The difference is that Clear and Braga are summarizing probation completion rates (not rearrests) for the *entire* adult felon and misdemeanor population—and most misdemeanants complete probation, whereas Langan and Cuniff are referring to rearrests and including only adult *felons*—many of whom are rearrested. In most writings on probation effectiveness the *felon* recidivism rates are presented as representing the entirety of the probation population. Figure 8 shows adult probationer recidivism outcomes for 1992, separately for felons versus the entire population.

In reality then there are two stories about probationer recidivism rates. Recidivism rates are low for the half of the population that is placed on probation for a misdemeanor—data suggest that three-

quarters successfully complete their supervision. Of course, previous data have shown that misdemeanants typically receive few services and little supervision; either they presented little risk of reoffending or they were “rehabilitated” as a result of their own efforts or being placed on probation served some deterrent function and encouraged them to refrain from further crime.

One might then question the wisdom of placing such low-risk persons on probation in the first place, given that probation departments are strapped for funds. Even if such persons do not receive direct supervision, there are transactional costs to their being on probation (e.g., staff training, administrative costs, office space for files).

More important, when these offenders do commit new crimes, probation is blamed for not providing adequate supervision and preventing their recidivism. Such bad publicity further tarnishes probation’s image. Recently, the failure to carry out court-ordered supervision has served as legal grounds for successfully suing probation departments that failed adequately to supervise offenders who subsequently recidivated; this is referred to as “negligence in supervision” (for a discussion, see del Carmen and Pilant 1994).

The other story is that for *felons* placed on probation, recidivism rates are high, particularly in jurisdictions that use probation extensively, where offenders are serious to begin with, and where supervision is minimal. In 1985, RAND researchers tracked a sample of 1,672 felony probationers sentenced in Los Angeles and Alameda Counties in 1980 for a three-year period. Over that period, 65 percent of the probationers were rearrested, 51 percent were reconvicted, and 34 percent were reincarcerated (Petersilia et al. 1985).

Other agencies replicated the RAND study, and the results showed that recidivism rates for felony probationers varied greatly from place to place, depending on the seriousness of the underlying population characteristics, the length of follow-up, and the surveillance provided. Geerken and Hayes (1993) summarized seventeen follow-up studies of adult felony probationers and found that felony rearrest rates ranged from 12 to 65 percent. Such wide variation in recidivism is not unexpected, given the wide variability in granting probation and monitoring court-order conditions.

B. Predicting Probationer Recidivism

Several studies have examined probationers’ backgrounds and criminal records in order to identify those characteristics that are associated with recidivism (e.g., Petersilia et al. 1985; Petersilia and Turner 1993;

Langan 1994). The results are consistent across studies, and Morgan (1993) recently summarized them as follows: *the kind of crime conviction and extent of prior record*: offenders with more previous convictions and property offenders (burglary as compared to robbery and drug offenders) showed higher rates of recidivism; *income at arrest*: higher unemployment/lower income are associated with higher recidivism; *household composition*: persons living with spouse, children, or both have lower recidivism; *age*: younger offenders have higher recidivism rates than older offenders; *drug use*: probationers who used heroin had higher recidivism rates.

In Petersilia and Turner (1986), although these factors were shown to be correlated with recidivism, the ability to *predict* recidivism was limited. Knowing the above information and using it to predict which probationers would recidivate and which would not resulted in accurate predictions only about 70 percent of the time. The probation programs the offender participated in, along with factors in the environment in which he was supervised (family support, employment prospects), predicted recidivism as much or more than the factors present prior to sentencing and often used in recidivism prediction models. Despite the ambition to predict offender recidivism, available data and statistical methods are insufficient to do so at this time.

C. Comparing Probationer and Parolee Recidivism

Proponents of probation often argue that although probationer recidivism rates may be unacceptably high, parolee recidivism rates are even higher. To buttress their arguments they usually compare the recidivism rates of all released prisoners with the recidivism rates of all probationers to show the greater benefits of probation versus prison. Generally—and not surprisingly—the probationers' recidivism rates are lower compared with prisoner recidivism rates. But this conclusion rests on flawed methodology, since there are basic differences between probationers and prisoners as groups, and these differences influence recidivism.

Petersilia and Turner (1986) conducted a study using a quasi-experimental design that incorporated matching and statistical controls to analyze the issue of comparative recidivism rates. They constructed a sample of 511 prisoners and 511 felony probationers who were comparable in terms of county of conviction, conviction crime, prior criminal record, age, and other characteristics, except that one group went to prison and the other was placed on felony probation. In the two-

year follow-up period, 72 percent of the prisoners were rearrested, as compared with 63 percent of the probationers; 53 percent of the prisoners had new filed charges, compared with 38 percent of the probationers; and 47 percent of the prisoners were incarcerated in jail or prison, compared with 31 percent of the probationers. However, although the prisoners' recidivism rates were higher than the probationers', their new crimes were no more serious, nor was there a significant difference in the length of time before their first filed charges (the average was about six months for both groups).

This study suggests that prison might have made offenders more likely to recidivate than they would have without the prison experience, although only a randomly designed experiment—where identically matched offenders are randomly assigned to prison versus probation—could confidently conclude that, and as yet none has been conducted.

D. Other Probation Outcome Measures

Another way to examine probation effectiveness is to look at the contribution of those on probation to the overall crime problem. The best measure of this comes from BJS's *National Pretrial Reporting Program*, which provides data on the pretrial status of persons charged with felonies collected from a sample which is representative of the seventy-five largest counties in the nation. The most recent BJS data are from 1992 and are contained in Reaves and Smith (1995). Figure 9 shows that of all persons arrested and charged with felonies in 1992, 17 percent of them were on probation at the time of their arrest.

From other BJS data, we can determine what percentages of offenders in different statuses were on probation or parole at the time of their arrest (fig. 10). Of those in prison during 1991 (Bureau of Justice Statistics 1993) and included in the BJS nationally representative *Survey of State Prison Inmates*, 29 percent were on probation at the time of the offense which landed them in prison. The BJS further reports that 31 percent of persons on death row in 1992 reported committing their murders while under probation or parole supervision (Bureau of Justice Statistics 1994).

Practitioners have expressed concern about the use of recidivism as the primary, if not sole, measure of probation's success (Boone and Fulton 1995). They note that crime is the result of a long line of social ills—dysfunctional families, economic and educational deprivation, and so on—and that these social problems are beyond the direct in-

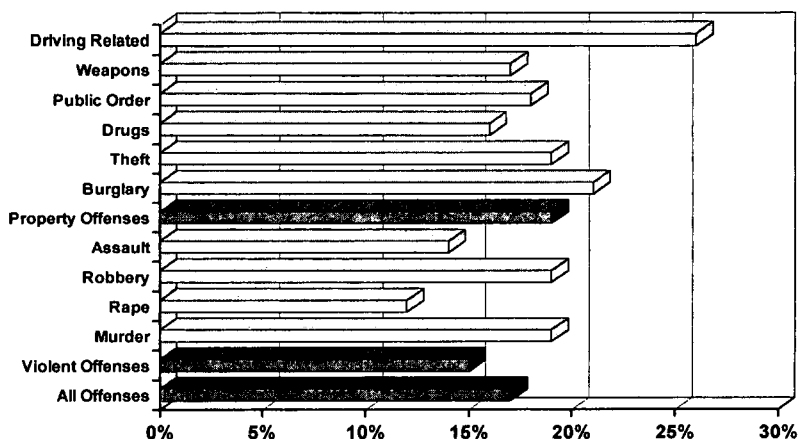


FIG. 9.—Percent of felony arrestees on probation at time of arrest, by crime type. Source.—Reaves and Smith (1995).

fluence of probation agencies. Moreover, using recidivism as the primary indicator of probation's success fails to reflect the multiple goals and objectives of probation, and it serves further to erode the public's confidence in probation services, since correctional programs, by and large, have been unable significantly to reduce recidivism.

The American Probation and Parole Association (APPA), the na-

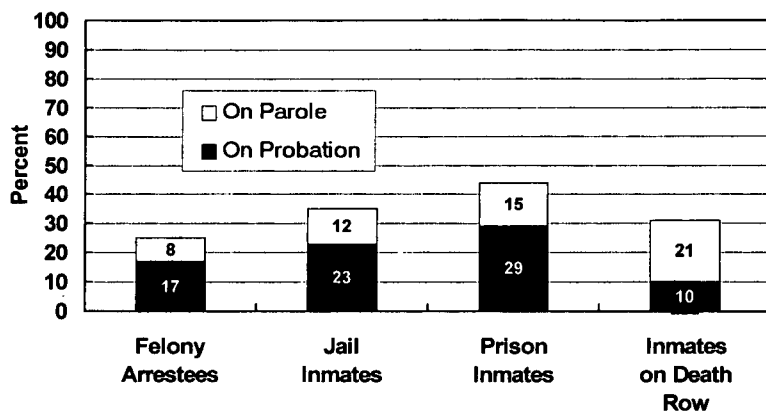


FIG. 10.—Percent of offenders on probation or parole at time of offense. Sources.—Beck (1991); Bureau of Justice Statistics (1993, 1994a); Reaves and Smith (1995).

tional association representing U.S. probation officers, argues that recidivism rates measure just one probation task while ignoring others such as preparing presentence investigations, collecting fines and fees, monitoring community service, and coordinating treatment services (Boone and Fulton 1995). There has been some exploration of how community corrections outcomes might appropriately be measured (Petersilia 1993).

The APPA has urged its member agencies to collect data on alternative outcomes, such as amount of restitution collected, number of offenders employed, amount of fines/fees collected, hours of community service, number of treatment sessions, percent financial obligation collected, enrollment in school, days employed, educational attainment, number of days drug-free. Some probation departments have begun to report such alternative outcomes measures to their constituencies and believe it is having a positive impact on staff morale, public image, and funding (Griffin 1996).

VI. How Can Probation Be Revived?

Probation finds itself in an awkward position in the United States. It was originally advanced by progressive reformers who sought to help offenders overcome their problems and mitigate the perceived harshness of jails and prisons. The public is now less concerned with helping offenders than with public safety and deserved punishment. But the public's tough-on-crime stance has caused jail and prison crowding nationwide, and the costs of sending a greater number of convicted offenders to prison have proven prohibitively expensive.

The public has now come to understand that not all criminals can be locked up, and so renewed attention is being focused on probation. Policy makers are asking whether probation can implement less expensive but more credible and effective community-based sentencing options. No one advocates the abolition of probation, but many call for its reform. But how should that be done?

A. Implement Quality Programming for Appropriate Probation Target Groups

Probation needs first to regain the public's trust that it can be a meaningful, credible sanction. During the past decade, many jurisdictions developed "intermediate sanctions" such as house arrest, electronic monitoring, and intensive supervision as a response to prison crowding. These programs were designed to be community-based

sanctions that were tougher than regular probation but less stringent and expensive than prison (Gowdy 1993; Clear and Braga 1995; Tonry and Lynch 1996).

The program models were plausible and could have worked, except for one critical factor: they were usually implemented without creating organizational capacity to ensure compliance with the court-ordered conditions. Intermediate sanctions were designed with smaller case-loads enabling officers to provide both services and monitoring for new criminal activity, but they were not given the resources needed to enforce the sanctions or provide necessary treatment.

When courts ordered offenders to participate in drug treatment, for example, many probation officers could not ensure compliance because local treatment programs were unavailable (Petersilia and Turner 1993). Programs that were available often put offenders at the back of the waiting list. Similarly, when courts ordered fines or restitution to be paid or community service to be performed, the order often was ignored because of a lack of personnel to follow through and monitor such requirements (Petersilia and Turner 1993). Over time, what was intended as tougher community corrections in most jurisdictions did not materialize, thereby further tarnishing probation's image.

As Andrew Klein, former chief probation officer in Quincy, Massachusetts, put it: "Unenforced sanctions jeopardize any sentence, undermining its credibility and potential to address serious sentencing concerns . . . they are like sentences to prison with cell doors that do not lock and perimeter gates that slip open. The moment the word gets out that the alternative sentence or intermediate sanction is unmonitored is the moment the court loses another sentencing option" (Klein 1997, p. 311).

While most judges still report being willing to use tougher, community-based programs as alternatives to routine probation or prison, most are skeptical that the programs promised "on paper" will be delivered in practice (Sigler and Lamb 1994). As a result, some intermediate sanction programs are beginning to fall into disuse (Petersilia 1995b).

But not all programs have had this experience. In a few instances, communities invested in intermediate sanctions and made the necessary treatment and work programs available to offenders (Klein 1997). And, most important, the programs worked: in programs where offenders received *both* surveillance (e.g., drug tests) and participated in relevant treatment, recidivism was reduced 20–30 percent (Petersilia

and Turner 1993). Recent program evaluations in Texas, Wisconsin, Oregon, and Colorado have produced similarly encouraging results (Clear and Braga 1995). Even in a national BJS probation follow-up study by Langan (1994), it was found that if probationers were participating in or making progress in treatment programs, they were less likely to have a new arrest (38 percent) than either those drug offenders who had made no progress (66 percent) or those who were not ordered to be tested or treated (48 percent).

There now exists solid empirical evidence that ordering offenders into treatment and requiring them to participate reduces recidivism (Anglin and Hser 1990; Lipton 1995; Gendreau 1996). So, the first order of business must be to allocate sufficient resources so that the designed programs (incorporating both surveillance and treatment) can be implemented. Sufficient monetary resources are essential to obtaining and sustaining judicial support and achieving program success.

High-quality probation supervision costs money, and we should be honest about that. We currently spend about \$200–\$700 per year, per probationer for supervision (Camp and Camp 1995). Even in the better-funded richer probation departments, the average annual amount spent on probation supervision is well below \$1,000 per probationer (Abadinsky 1997). It is no wonder that recidivism rates are so high. Effective substance abuse treatment programs are estimated to cost at least \$12,000–\$14,000 per year (Lipton 1995). Those resources will be forthcoming only if the public believes the programs are both effective and punitive.

Public opinion is often cited by officials as the reason for supporting expanded prison policies. According to officials, the public demands a “get-tough-on-crime” policy, which is synonymous with sending more offenders to prison for longer terms (Bell and Bennett 1996). We must publicize recent evidence showing that offenders—whose opinion on such matters is critical for deterrence—judge some intermediate sanctions as *more* punishing than prison. Surveys of offenders in Minnesota, Arizona, New Jersey, Oregon, and Texas reveal that when offenders are asked to equate criminal sentences, they judge certain types of community punishments as *more* severe than prison (Crouch 1993; Petersilia and Deschenes 1994; Spelman 1995; Wood and Grasmick 1995).

One striking example comes from Marion County, Oregon. Selected nonviolent offenders were given the choice of serving a prison term or returning to the community to participate in the Intensive Supervision

Probation (ISP) program, which imposed drug testing, mandatory community service, and frequent visits with the probation officer. About a third of the offenders given the option to choose between ISP or prison chose prison. When Minnesota inmates and corrections staff were asked to equate a variety of criminal sentences, they rated three years of intensive supervision probation as equivalent in punitiveness to one year in prison (Petersilia and Deschenes 1994).

What accounts for this preference of prison over community-based penalties? Why should anyone prefer imprisonment to remaining in the community—no matter what the conditions? Some have suggested that prison has lost some of its punitive sting and, hence, its ability to scare and deter. Possessing a prison record may not be as stigmatizing as in the past, because so many of the offenders' peers (and family members) also have "done time." Further, about a quarter of all U.S. black males will be incarcerated during their lives, so the stigma attached to having a prison record is not as great as it was when it was relatively uncommon (Mauer and Huling 1995). And the pains associated with prison—social isolation, fear of victimization—seem less severe for repeat offenders who have learned how to do time.

Far from stigmatizing, prison evidently confers status in some neighborhoods. Jerome Skolnick of the University of California at Berkeley found that for drug dealers in California, imprisonment confers a certain elevated "home boy" status, especially for gang members for whom prison and prison gangs can be an alternative site of loyalty (Skolnick 1990). And according to the California Youth Authority, inmates steal state-issued prison clothing for the same reason. Wearing it when they return to the community lets everyone know they have done "hard time" (Petersilia 1992).

The time an offender can be expected to serve in prison has also decreased—latest statistics show that the average U.S. prison term for those released to parole is seventeen months (Maguire and Pastore 1995). But more to the point, for less serious offenders, the expected time served can be much less. In California, for example, more than half of all offenders entering prison in 1990 were expected to serve six months or less (Petersilia 1992). Offenders on the street may be aware of this, perhaps because of the extensive media coverage such issues receive.

For convicted felons, of course, freedom is preferable to prison. But the type of probation program being advocated here—combining heavy doses of surveillance and treatment—does not represent free-

dom. Such programs may have more punitive bite than prison. Consider a comparison between Contra Costa (California) County's Intensive Supervision Program (ISP) for drug offenders, which was discontinued in 1990 due to a shortage of funds, with what drug offenders would face if imprisoned:

1. *ISP.* Offenders are required to serve at least one year on ISP. In addition to twice weekly face-to-face contacts, ISP includes a random drug testing hotline, Saturday home visits, weekly narcotics anonymous meetings, special assistance from police to expedite existing bench warrants, and liaison with the State Employment Development Department. To remain on ISP, offenders must be employed or in treatment, perform community service, pay victim restitution, and remain crime- and drug-free.

2. *Prison.* A sentence of twelve months will require that the offender serve about half of that. During his term, he is not required to work nor will he be required to participate in any training or treatment, but may do so if he wishes. Once released, he will probably be placed on routine parole supervision, where he might see his officer once a month.

It is important to publicize these results, particularly to policy makers, who say they are imprisoning such a large number of offenders because of the public's desire to get tough on crime. But it is no longer necessary to equate criminal punishment solely with prison. The balance of sanctions between probation and prison can be shifted, and at some level of intensity and length, intermediate punishments can be the more dreaded penalty.

Once the political support and organizational capacity are in place, offender groups need to be targeted that make the most sense, given our current state of knowledge regarding program effectiveness (for a recent review, see Harland 1996). Targeting drug offenders makes the most sense for a number of reasons. Drug offenders were not always punished so frequently by imprisonment. In California, for example, just 5 percent of convicted drug offenders were sentenced to prison in 1980, but by 1990 the number had increased to 20 percent (Petersilia 1992). Large-scale imprisonment of drug offenders has only recently taken place, and there is some new evidence suggesting that the public seems ready to accept different punishment strategies for low-level drug offenders.

A 1994 nationwide poll by Hart Research Associates reported that Americans understand that drug abuse is not simply a failure of will-

power or a violation of criminal law. They now see the problem as far more complex, involving not only individual behavior but also fundamental issues of poverty, opportunity, and personal circumstances. The Drug Strategies report (Falco 1995) reports that nearly half of all Americans have been touched directly by the drug problem: 45 percent of those surveyed in the 1994 Hart poll said that they knew someone who became addicted to a drug other than alcohol. This personal knowledge is changing attitudes about how to deal with the problem: seven in ten believe that their addicted acquaintance would have been helped more by entering a supervised treatment program than by being sentenced to prison.

It appears that the public wants tougher sentences for drug traffickers and more treatment for addicts—what legislators have instead given them are long sentences for everyone. The Drug Strategies group, which analyzed the Hart survey, concluded that “public opinion on drugs is more pragmatic and less ideological than the current political debate reflects. Voters know that punitive approaches won’t work” (Falco 1995).

Another recent national telephone survey confirms these findings (Flanagan and Longmire 1996), concluding that respondents favored treatment rather than punishment as the best alternative to reduce the use of illegal drugs and that Americans want to see a change in drug control strategy (Cintron and Johnson 1996). Public receptiveness to treatment for addicts is important, because those familiar with delivering treatment say that is where treatment can make the biggest impact.

A recent report by the prestigious Institute of Medicine (IOM) of the National Academy of Sciences recommends focusing on probationers and parolees to curb drug use and related crime (Institute of Medicine 1990). They noted that about one-fifth of the estimated population needing treatment—and two-fifths of those clearly needing it—are under the supervision of the justice system as parolees or probationers. And since the largest single group of serious drug users in any locality comes through the justice system every day, the IOM concludes that the justice system is one of the most important gateways to treatment delivery and that we should be using it more effectively.

Moreover, research has shown that those under corrections supervision stay in treatment longer, thereby increasing positive treatment outcomes. The claim that individuals forced into treatment by the courts will not be successful has not been borne out by research; just

the opposite is true. Research at UCLA and elsewhere has provided strong evidence not only that drug abuse treatment is effective but also that individuals coerced into treatment derive as many benefits as those who enter voluntarily (Anglin and Hser 1990). The largest study of drug treatment outcomes found that justice system clients stayed in treatment longer than clients with no justice system involvement and, as a result, had higher than average success rates (Institute of Medicine 1990). The evidence suggests that drug treatment is effective for both men and women, whites and minority ethnic groups, young and old, and criminal and noncriminal participants.

However, as noted above, good-quality treatment does not come cheap. But in terms of crime and health costs averted, it is an investment that pays for itself immediately. Researchers in California recently conducted an assessment of drug treatment programs and identified those that were successful, concluding that it can now be "documented that treatment and recovery programs are a good investment" (Gerstein et al. 1994). The researchers studied a sample of 1,900 treatment participants, followed them up for as much as two years of treatment, and studied participants from all four major treatment modalities (therapeutic communities, social models, outpatient drug free, and methadone maintenance).

Gerstein et al. (1994, p. 33) conclude: "Treatment was very cost beneficial: for every dollar spent on drug and alcohol treatment, the state of California saved \$7 in reductions in crime and health care costs. The study found that each day of treatment *paid for itself on the day treatment was received*, primarily through an avoidance of crime. The level of criminal activity declined by two-thirds from before treatment to after treatment. The greater the length of time spent in treatment, the greater the reduction in crime. Reported criminal activity declined before and after treatment as follows: mean number of times sold or helped sell drugs (-75 percent), mean number of times used weapon/physical force (-93 percent), percent committing any illegal activity (-72 percent), and mean months involved in criminal activity (-80 percent)."

Regardless of type of treatment modality, reduction in crime was substantial and significant (although participants in the social model recovery programs had the biggest reduction). In the California study, the most effective treatment programs cost about \$12,000 per year, per client (Gerstein et al. 1994). UCLA researchers recently concluded: "It seems that drug abuse treatment mandated by the criminal justice sys-

tem represents one of the best and most cost-effective approaches to breaking the pernicious cycle of drug use, criminality, incarceration, and recidivism" (Prendergast, Anglin, and Wellisch 1995).

In sum, there are several steps to achieving greater crime control over probationers and parolees. First, adequate financial resources must be provided to deliver programs that have been shown to work. Successful programs combine *both* treatment and surveillance and are targeted toward appropriate offender subgroups. Current evidence suggests that low-level drug offenders are prime candidates for the intermediate sanction programs considered here. Then support must be garnered, convincing the public that the probation sanction is punitive and convincing the judiciary that offenders will be held accountable for their behavior.

Of course, there is much more to reforming the probation system than simply targeting low-level drug offenders for effective treatment, but this would be a start. We also need to seriously reconsider probation's underlying mission, administrative structure, and funding base. And, we need to fund a program of basic research to address some of probation's most pressing problems.

B. Make Probation a Priority Research Topic

Basic research on probation has diminished in recent years, except for evaluations on intermediate sanctions funded by NIJ. While these early evaluations are instructive, their results are by no means definitive. The programs have mostly been surveillance-oriented and have focused primarily on increasing drug testing and face-to-face contacts with offenders. They have incorporated little treatment or employment training. Most intermediate sanction programs targeted serious, career criminals with lengthy histories of crime and substance abuse. As noted in this essay, there is some supportive evidence that intermediate sanctions incorporating treatment in addition to surveillance activities do produce lower recidivism. It is also possible that had these programs been targeted toward less serious offenders or earlier in their criminal careers the results might have been more encouraging. There is reason to continue experimenting with community-based sanctions, varying target populations, program elements, setting, and point in the criminal career for intervention.

This essay has also highlighted the importance of technical violations in community supervision. Probation and parole officers spend

most of their time monitoring the technical conditions imposed by the courts (such as no alcohol or drug use). When violations are discovered, additional time is spent in processing the paperwork necessary to revoke offenders. Many of those offenders are revoked to prison, most of them for violations of the “no drug use” condition, as detected through urine testing. Such revocations will undoubtedly increase as urinalysis testing for drugs becomes less expensive and more widespread.

This begs an important question: what purpose is served by monitoring and revoking persons for technical violations, and is the benefit worth the cost? If technical violations identify offenders who are “going bad” and likely to commit crime, then we may well wish to spend the time uncovering such conditions and incarcerating those persons. However, if technical violators are simply troubled, but not criminally dangerous, then devoting scarce prison resources to this population may not be warranted. Despite the policy significance of technical violations, little serious research has focused on this issue. As the cost of monitoring and incarcerating technical violators increases, research must examine its crime control significance.

There is also the ongoing debate about who is in prison and whether there exists a group of prisoners who, based on crime and prior criminal records, could safely be supervised in the community. Proponents of alternatives argue that over the past decade the use of imprisonment expanded vastly and, as a result, that many low-level offenders are now in prison. They contend that many (if not most) prisoners are minor property offenders, low-level drug dealers, or technical violators—ideal candidates for community-based alternatives. Those who are against expanding prison alternatives disagree, citing data showing that most prisoners are violent recidivists with few prospects for reform.

It is likely that the truth lies somewhere in between and that the differences in the numbers cited depend on how one aggregates the data and what data set one chooses to analyze. It is likely that historical sentencing patterns have resulted in vastly different populations being incarcerated in different states. Research examining the characteristics of inmates in different states (by age, criminal record, and substance abuse history) is necessary to clarify this important debate. It is also critical that we conduct better follow-up studies (ideally, using experimental designs) of offenders who have been sentenced to prison as opposed to various forms of community supervision. By tracking similarly

situated offenders, sentenced differently, we will be able to refine our recidivism prediction models and begin to estimate more accurately the crime and cost implications of different sentencing models.

We also need to move away from the fragmentary studies of individual agencies and toward more comprehensive assessment of how probation departments and other justice agencies influence one another and together influence crime. Decisions made in one justice agency have dramatic workload and cost implications for other justice agencies and for later decisions (such as probation policy on violating technicals). To date, these systemic effects have not been well studied, and much benefit is likely to come from examining how various policy initiatives affect criminal justice agencies, individually and collectively. Generating more arrests will not necessarily result in more convictions and incarcerations if prosecutors and corrections (either by policy or budget constraints) do not follow through with convictions and incarcerations. Many past probation reforms—implemented by well-meaning probation staff—have been undermined by the failure of other justice system agencies to cooperate in the program.

The issues presented above are only a few of the salient themes that should be pursued to improve understanding of the nation's probation system. Probation has much untapped potential and, with research and program attention, can become an integral part of our nation's fight against crime.

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