

Federal Probation

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This Issue in Brief

What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions.—Are there intermediate sanctions that equate, in terms of punitiveness, with prison? Authors Joan Petersilia and Elizabeth Piper Deschenes report on a study designed to examine how inmates in Minnesota rank the severity of various criminal sanctions and which particular sanctions they judge equivalent in punitiveness. The authors also explore how inmates rank the difficulty of commonly imposed probation conditions and which offender background characteristics are associated with perceptions of sanction severity.

Using Day Reporting Centers as an Alternative to Jail.—An intermediate sanction gaining popularity is day reporting in which offenders live at home and report to the day reporting center regularly. Authors David W. Diggs and Stephen L. Pieper provide a brief history of day reporting centers and explain how such centers operate. They describe Orange County, Florida's day reporting center, which is designed to help control jail overcrowding and provide treatment and community reintegration for inmates.

Locating Absconders: Results From a Randomized Field Experiment.—Absconders are a problem for the criminal justice system, especially for probation agencies responsible for supervising offenders in the community. Authors Faye S. Taxman and James M. Byrne discuss how the Maricopa County (Arizona) Adult Probation Department addressed the problem by developing a warrants unit devoted to locating and apprehending absconders. They present the results of a randomized field experiment designed to test the effects of two different strategies for absconder location and apprehension.

Rehabilitating Community Service: Toward Restorative Service Sanctions in a Balanced Justice System.—While community service sanctions used to be regarded as potentially rehabilitative interventions for offenders, now they are often used as a punitive "add-on" requirement or not clearly linked to sentencing objectives. Authors Gordon Bazemore and Dennis Maloney argue that community service could be revitalized by developing principles and guidelines

for quality and performance based on a clear sanctioning policy and intervention mission. They propose restorative justice as a philosophical framework for community service and present the "Balanced Ap-

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What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions

BY JOAN PETERSILIA, PH.D., AND ELIZABETH PIPER DESCHENES PH.D.*

Introduction and Research Questions

THE INTERMEDIATE sanctions movement of the 1980's was predicated on the assumption that the two extremes of punishment—imprisonment and probation—are both used excessively, with a near vacuum of useful punishments in between. According to Morris and Tonry (1990), a more comprehensive sentencing strategy that relies on a range of "intermediate" punishments—including fines, community service, intensive probation, and electronic monitoring—would better meet the needs of the penal system, convicted offenders, and the community than the current polarized choice. The central thesis of the Morris and Tonry proposal is that there are "equivalencies" of punishment and that, at some level of intensity, community-based punishments are as severe as prison terms (i.e., have roughly the same punitive "bite"). They encouraged states to identify these roughly equivalent punishments (or "exchange rates") and allow judges to choose among sentences of rough punitive equivalence. They predicted that in many instances judges would choose to substitute restrictive, intermediate punishments in lieu of a prison term.

Implementing intermediate sanction programs within states' broad-based sentencing structure (particularly in states with sentencing guidelines) has proven much easier than developing the comprehensive sentencing system that Morris and Tonry envisioned. A major stumbling block has been reaching consensus on the relative severity of different community-based punishments (e.g., house arrest versus community service) and, more importantly, on which intermediate sanctions, in what dosage, can be substituted for prison. When the choice was simply prison versus standard probation, most everyone agreed that prison was more severe. But with the emergence of highly restrictive community-based punishments—which often require drug testing, employment, and curfews—it is no longer obvious.

Most law-abiding citizens probably still believe that no matter what conditions probation or parole impose, remaining in the community is categorically preferable to imprisonment, but recent evidence suggests that offenders might not share this view. When Oregon implemented an intensive supervision probation (ISP) program in 1989 and offenders were given the choice of serving a prison term or participating in ISP (which incorporated drug testing, employment, and frequent home visits by the probation officer), about a third of the offenders chose prison instead of ISP (Petersilia, 1990).

It may also be that prison is losing some of its punitive sting. For example, Skolnick (1990) reported that, for certain California youth, having a prison record was no longer seen as stigmatizing, and the prison experience not particularly isolating, since they usually encountered family and friends there. If prison is not judged as severe as we presume it is, this may have important implications for sentencing policy. Since the major purposes of the criminal law are retribution and deterrence, this means that sanctions must be viewed as punitive to fulfill their goals. And, as Crouch (1993, p. 68) has noted, "Theoretically, for prison to have the punitive and deterrent effect on offenders that the public desires, a fundamental assumption must be met: that offenders generally share the state's punitiveness in the ranking of criminal sanctions."

The unanswered question is, "do they?" If they don't, and if community-based punishments can be designed so that they are seen as equally punitive by offenders, then perhaps policymakers—who say they are imprisoning such a large number of offenders because of the public's desire to get tough with crime—might be convinced that there are other means besides prison to exact punishment.

Despite the importance of the offenders' perspective as noted by Crouch (1993), there have been only three prior attempts to survey the opinions of criminal offenders regarding the perceived severity of sanctions (McClelland & Alpert, 1985; Apospori & Alpert, 1993; Crouch, 1993), and none of these studies included the newer intermediate sanctions (e.g., intensive probation). In addition, most prior research on sanction severity has used either paired comparisons or magnitude estimation to measure judgments, and both techniques have methodological or analytical flaws.¹

McClelland and Alpert (1985) surveyed 152 arrestees in a midsize western city, following the example of Erickson and Gibbs (1979) who used magnitude

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estimation techniques to survey policemen and adults in households. Respondents were given a list of penalties (randomly ordered), including different levels of fines, probation, jail, and prison, and instructed to assign a number to each penalty based on the standard of 100 for 1 year in jail. They found that persons who had more experience with the criminal justice system (e.g., more prior convictions) minimized the seriousness of prison in comparison to other punishments. And in later research, Apospori and Alpert (1993) suggested that as the threat of the legal sanction became realized, arrestees raised their perceptions of the severity of sanctions. In a survey of 1,027 incoming prisoners at a Texas institution who were asked if they would prefer probation or prison, Crouch (1993) found that the majority of inmates preferred prison to probation, believing probation was stricter. In addition, Crouch found that those who were married preferred probation to prison, yet minorities and older inmates preferred prison.

This article presents the results of an exploratory study undertaken in cooperation with the Minnesota Department of Corrections and the Minnesota Sentencing Guidelines Commission and funded by the National Institute of Justice to explore these issues. The study developed an instrument and methodology for measuring offender perceptions of sanction severity and, using that method, collected data on the following questions:

1) How do inmates rank the severity of criminal sanctions, and which sanctions are judged equivalent in punitiveness?

2) What background characteristics are associated with variations in the perception of sanction severity?

3) How do inmates rank the difficulty of probation/parole conditions, and how does this affect their ranking of sanctions?

Our research attempted to build upon prior research by adding the newer intermediate sanctions to the survey and including both magnitude estimation and rank ordering scaling techniques. The simpler technique of rank ordering is likely to give a more accurate model of the ratings of various punishments, since offenders may not have the mathematical skills necessary for the magnitude estimation judgment of severity. Besides increasing the simplicity of the task, the use of ordered logistic regression to model the underlying latent scale of sanction severity and test for differences between individuals allowed greater flexibility in the analysis (Agresti, 1990). The basic model being tested assumes that each individual has an underlying scale of the severity of different sanctions.

Ordered logistic regression allows us to more easily test whether various sanctions are indeed equivalent with less rigid assumptions about the data.² For these reasons, the rank ordering analysis is preferred and this article focuses on those results.

Study Design and Results

Sample Selection

The sample selection criteria were designed to identify offenders who would likely be targeted for intermediate sanctions and therefore whose perceptions about the severity of such sanctions are particularly relevant. We used the same criteria to identify our sample that had been outlined by the Minnesota Legislature in deciding which inmates qualified for the state's Intensive Community Supervision (ICS) program. To be eligible for ICS, offenders must be either a probation violator or a new court commitment with less than a 27-month prison sentence to serve. Offenders with prior convictions for murder, manslaughter, or rape are ineligible. The sample was drawn from incoming inmates who met the ICS eligibility criteria at the two main receiving facilities in Minnesota, St. Cloud and Stillwater. Forty-eight male inmates were so identified during the months of April-July 1992, and all agreed to participate in the study.

The sample of inmates were 50 percent white, and the majority of nonwhites were Afro-American; the average age at the time of the current offense was 26. Inmates tended to be unemployed prior to prison, and about half had less than a high school education. Inmates were serving, on average, prison terms of 17 months, and most had been convicted of property offenses. Inmates averaged seven prior arrests and two prior felony convictions, and one-third had previously served time in prison.

Data Collection

RAND staff coded various demographic and criminal history data from each inmate's official corrections file. Interviews were administered with those who agreed to participate in the study, and respondents received \$20 for participating. The interview took about an hour to administer and was divided into four sections:

1) *The Magnitude Estimation Task.* Fifteen legal sanctions were selected for the study (see table 1). Each sanction description was printed separately on a 3x5-inch card and presented one by one to the respondent in a random order. Respondents were instructed to compare each of the sanctions to the standard of 1 year in jail, which was equivalent to 100 points.

2) *Offender Background Interview.* About 25 open-ended questions were asked offenders requesting in-

formation on employment, housing arrangements, family relationships, present prison experiences, and their perceptions of prison versus community-based sentencing.

3) *The Ranking of Probation Conditions.* Inmates were asked to estimate "the difficulty you would probably experience in trying to meet the (specified) condition." They were asked about 13 commonly imposed conditions and directed to place each "condition card" next to one of five responses (ranging from not difficult at all to very difficult).

4) *The Rank Ordering Task.* To rank order the sanctions, inmates were given a stack of 4x6-inch cards (randomly ordered). Each card had printed on it one of the 15 sanctions (see table 1). Inmates were instructed to simply place the cards on the table, from left to right, in order from least severe to most severe.

Inmate Rankings and Equivalencies of the Severity of Criminal Sanctions

The means and standard deviations for the rank orders of the 15 sanctions presented in table 1 suggest that inmate consensus is greatest at the lowest and highest levels—i.e., \$100 fine and 5 years in prison.

The larger values for the standard deviations on other sanctions suggest there is some variation between individuals, particularly on the ratings of a \$5,000 fine, 3 months in jail, and 1 year in prison. Nonetheless, the means and medians provide similar results in the overall rank ordering of the various sanctions. For example, there appear to be "clusters" of sanctions—5 years probation, 3 years intensive probation, and 1 year in jail all have a median rank of 10. To statistically test for significant differences in the rank ordering of various sanctions, further analysis was necessary.

The data were analyzed using ordered logistic regression to model the ordered categorical responses as a function of the type of sanction. In the simplest case the model is of the form:

$$\text{ranking} = f(\text{sum } \beta(i) * \text{sanction}(i))$$

The results of this type of analysis are a collection of parameter estimates or "betas," one for each sanction in the simplest case. The estimated coefficients in this model form a latent variable scale yielding an interval valued "score" for the various sanctions. The betas

TABLE 1. INMATES' RANK ORDERING OF CRIMINAL SANCTIONS

Criminal Sanction	Mean	Standard Deviation	Median Rank Order
Fines			
\$100	1.3	1.1	1
\$1,000	4.5	3.4	3
\$5,000	7.6	3.6	7
Probation			
1 year	4.2	2.0	4
3 years	6.8	2.7	6
5 years	9.8	2.8	10
Intensive Probation			
1 year	7.1	2.2	7
3 years	9.5	2.2	10
5 years	11.4	2.6	11.5
Jail			
3 months	4.6	3.1	3.5
6 months	6.4	2.9	6
1 year	9.6	2.8	10
Prison			
1 year	9.7	3.2	11
3 years	13.0	2.0	14
5 years	14.5	1.5	15

represent ranking of the sanctions and standard errors for the sanction's position on the latent scale. The statistical test of the difference between the ranking of the sanction and the ranking of the omitted category is a chi-square test with 1 degree of freedom.

The first model tested using ordered logistic regression compared all other sanctions to 1 year of intensive supervision. For this model, the parameter estimate for 1 year ISP was set to zero, and as shown in table 2, sanctions that are not statistically different from 1 year intensive probation include 6 months jail, 3 years probation, and a \$500 fine. The parameter estimates for the other sanctions show results that are consistent with the simple comparison of the median rank orders.

To test for equivalencies in the ratings of the sanctions, the ordered logistic regression analysis was repeated, each time omitting a different sanction, and chi-square tests performed, comparing sanction to the omitted category. The results of this analysis can be used to devise formulas for the substitution of incarceration for community-based punishments as shown in table 2.

A number of things are worth noting. First, inmates judged 1 year spent in jail as equivalent to 1 year spent in prison. In fact, in the open-ended interviews, several inmates stated that prison time was easier to do because there were more activities to occupy their time and conditions were generally better. Inmates also ranked 5 years of intensive probation supervision as harsher than 1 year in prison but not as harsh as 3 years in prison. Five years in prison was judged more severe than any other sanction and had no equivalent in terms of the intermediate sanctions measured here. Similarly, a \$100 fine was judged as significantly less severe than any other sanction measured here, having no other statistical equivalent.

Differences Between Individuals

To test for differences between individuals, ordered logistic regression was used and various models compared by using the chi-square differences from likelihood ratio tests. Only two of the background variables were significantly related to the perceptions of sanction severity: (1) inmates who were married and/or had children tended to rank prison and jail confinement as more severe than those who were single; and (2) inmates who were single tended to rank financial penalties (e.g., fines, restitution) as more severe than inmates who were married. We found no differences in the rankings of sanction severity by race, prior prison experience, employment history, drug dependency, or how safe the inmate felt in prison. It is possible that the sample was too small to detect differences or the characteristics of our sample too homogeneous. On the other hand, it may be that the differences noted in

earlier studies reflect the clearer distinctions in the offenders' mind between prison and probation, which because of the inclusion of intermediate sanctions, was not as pronounced in our study as in earlier research.

Rating the Difficulty of Complying With Various Probation Conditions

We were interested in learning how inmates varied in their perception of the difficulty of complying with various probation conditions and whether this perception affected their rankings of different sanctions. Figure 1 presents the results, with the responses averaged over all inmates.

Inmates generally felt they would have little difficulty in complying with various restrictions. The overall rating for the 13 probation conditions was 2.1, which is "relatively easy." They judged the easiest conditions to be payment of a \$100 fine and 10 hours per week of community service and the most difficult conditions to be house arrest with 24-hour electronic monitoring and the payment of a \$20-per-week probation/parole supervision fee.

It might seem contrary that inmates who judged certain intermediate sanctions as equivalent to prison in harshness would also judge the individual condi-

TABLE 2. INMATES' PERCEIVED SEVERITY OF CRIMINAL SANCTIONS

Criminal Sanction	Parameter Estimate	Standard Error	Chi-Square
\$100 fine	-7.42	.68	118.3*
\$1,000 fine	-2.14	.38	32.4*
3 months jail	-1.85	.36	25.8*
1 year probation	-1.80	.35	26.5*
6 months jail	-0.49	.34	2.1
3 years probation	-0.15	.34	0.2
1 year intensive probation	0.00		
\$5,000 fine	0.24	.36	0.4
3 years intensive probation	1.25	.33	14.2*
1 year jail	1.35	.34	15.4*
5 years probation	1.45	.35	17.4*
1 year prison	1.56	.35	19.5*
5 years intensive probation	2.49	.36	47.9*
3 years prison	4.17	.39	113.1*
5 years prison	7.38	.56	175.1*

* Chi-square test of difference between this parameter estimate and the estimate for the omitted category (1 year ISP) is significantly different at $p < .05$.

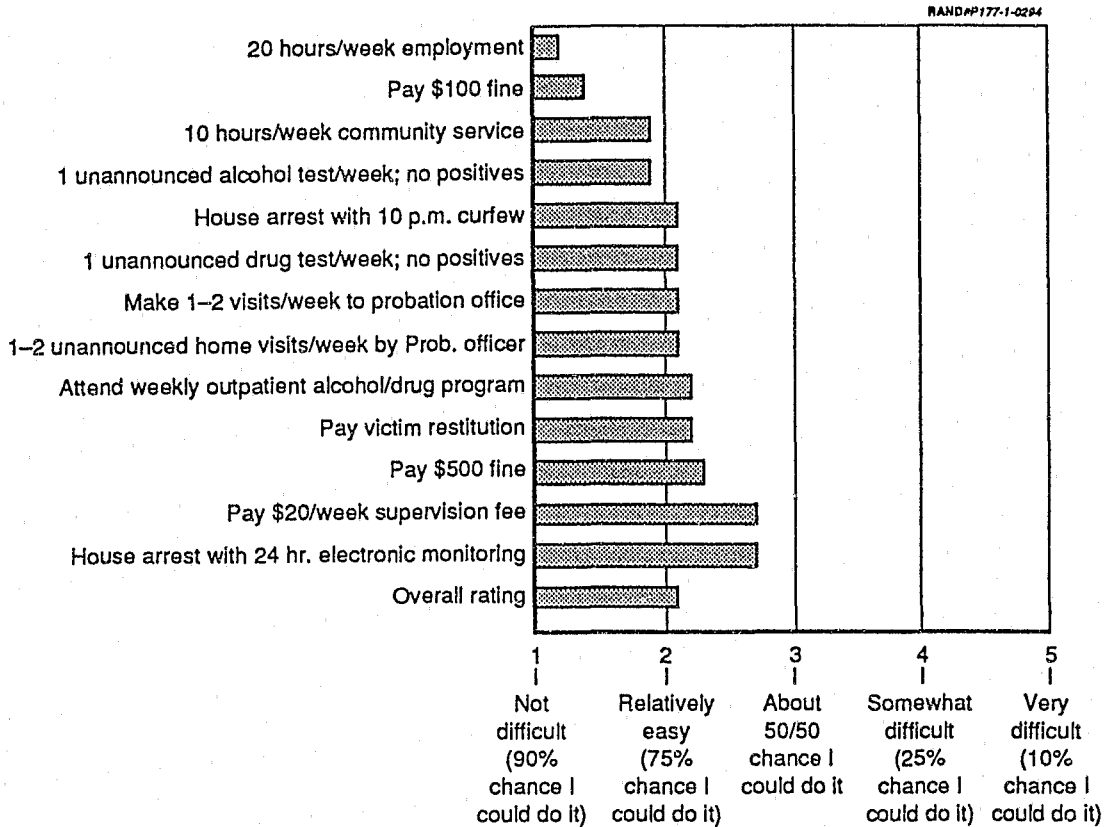


Figure 1. INMATE PERCEPTIONS OF THE DIFFICULTY OF PROBATION CONDITIONS

tions making up those sanctions as rather easy to comply with. Information offered by inmates during the interviews suggests that while each individual condition might be easy to comply with, when conditions are stacked together—*particularly over longer time periods*—they become much more difficult. House arrest sentences are often for periods of 6 months to 1 year, and intensive probation is usually for 1-2 years.

We analyzed the relationship between background characteristics and inmate ratings of probation conditions and found only one significant difference: Those with no history of drug or alcohol use (as noted on their official prison records) reported finding it more difficult to attend a weekly outpatient treatment program than did the users. We also tested whether the inmates' overall rating score on probation conditions was related to the ranking of the severity of the overall criminal sanctions but found no significant differences between those who rated the probation conditions as easy to comply with and those who rated the conditions as more difficult.

Discussion and Policy Implications

Our results provide empirical evidence to support what many have suggested: that it is no longer necessary to equate criminal punishment solely with prison. The balance of sanctions between probation and

prison appears to have shifted, and at some level of intensity and length, intensive probation is the more dreaded penalty.

These findings have a number of research and policy implications. For one, the clusters of sanctions identified as "equivalent" in severity should be useful to sentencing commissions attempting to incorporate alternatives into sentencing guidelines and to devise formulas showing the equivalency of alternative sanctions to imprisonment.

Ideally, one wants to devise an intermediate sanction that includes enough conditions (but not more than necessary) to exact punishment and protect the public. But since little knowledge exists about how many conditions, or what type, are necessary to achieve those goals, jurisdictions continue to add conditions, thus negating one of the major purposes of intermediate sanctions, which is to provide suitable punishment at less cost than prison. Inmate judgments on punitive equivalence could be useful in setting some boundaries on what types of conditions, imposed for how long, are required to mete out "tough" probation sentences and to suggest some rough ordering that might be used to create a continuum of punishments—from fines through community service, standard probation, intensive probation and house arrest, then moving on to jail, and finally prison.

The study results also have implications for sentencing and deterrence research. Sentencing studies routinely build mathematical models of punishment that treat anything other than prison as "zero" and assign positive values only to increments of imprisonment. Similarly, deterrence studies assign numerical ranks reflecting sanction seriousness and then analyze whether there is a relationship between the severity rankings and some post-treatment outcome (e.g., usually recidivism). Both types of studies rely on scales of sanction severity, which our study suggests are in need of refinement. At a minimum, sentencing studies need to recognize different levels of probation supervision (i.e., not code all probation sentences identically) and that probation terms do not equate to "zero," which implies no sanction at all.

Our findings also have implications for sentencing policy more generally. It is argued by some that the United States has failed to develop a sufficient range of criminal sanctions because the dialogue is often cast as punishment (prison) or not, with other sanctions being seen as "letting off" or a "slap on the wrist." The results of this study show that certain community-based sanctions are not a "slap on the wrist" and are judged quite punitive. This should give justice officials pause, particularly those who state they are imprisoning such a large number of offenders to get "tough on crime." Our results suggest that, in the minds of offenders, community-based sanctions can be severe, and it can no longer be said that incarceration is preferred simply because, as Fogel (1975) stated, "we have not found another satisfactory severe punishment."

NOTES

¹For example, one problem with magnitude estimation is that the validity depends on the adequacy of subjects' mathematical skill,

since it requires subjects to rate various stimuli in comparison to the standard numerical value. Although used in numerous psychological experiments on subjects with varying skills, research has shown that the use of magnitude estimation techniques among naive or poorly educated subjects is questionable (Jones & Shorter, 1972).

²Ordered logistic regression does not depend on the use of an interval level of measurement, as does the magnitude estimation techniques.

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