

Intermediate
Sanctions
in Corrections



GAIL A. CAPUTO

Number 4 in the North Texas Crime and
Criminal Justice Series

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“Home Confinement” by Jon’a F. Meyer
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Design by Angela Schmitt



For my family: Kathleen, Anthony, Betty, Theresa, Susan,
Howie, Chris, Annie, and Lily







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PREFACE

In the past two decades, states and the federal government have developed and implemented new correctional options in an attempt to reduce correctional crowding and costs, better manage higher-risk offenders in the community, reduce crime, and achieve greater fairness and effectiveness in criminal sentencing for adults. These innovations are referred to as intermediate sanctions programs and are the subject of this book.

This book provides a simple but comprehensive description of the intermediate sanctions system and meaningful analysis of the individual programs. The book is organized into three parts. Part I presents to the reader a background and context for understanding the role of intermediate sanctions in the criminal justice system. It explains the history and development of intermediate sanctions, including philosophies of punishment and an overview of sentencing processes. The key issues for evaluating the effectiveness of intermediate sanctions are outlined in Part I. In Part II, each of the seven chapters focuses on a specific intermediate sanction: intensive supervision programs, boot camps, day reporting centers, home confinement with electronic monitoring, monetary penalties, community service, and halfway houses. Each chapter traces the history of the intermediate sanction, provides statistics on its extent and scope, and describes target populations, program characteristics, and research findings. Program examples are a main feature of each chapter. Part III summarizes the research related to intermediate sanctions and provides recommendations for the future.

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PART I



Background and Foundation of Intermediate Sanctions Programs





 **CHAPTER 1**

Overview and Theoretical Foundations of Corrections

THE CRIMINAL JUSTICE SYSTEM

Criminal justice in the United States involves three interdependent agencies—law enforcement, courts, and corrections—operating at the federal, state, and local levels. Together, these agencies represent the criminal justice system. Although with distinct lines of funding, rules, standards, procedures, and organizational structures, these agencies must work together in the processing of criminal cases. This process is traditionally characterized by a model developed by the President’s Commission on Law Enforcement and the Administration of Justice (LEAA) (President’s Commission on Law Enforcement and Administration of Justice, 1967). The model portrays a rational, systematic assembly line-like processing of criminal cases through the three agencies. Law enforcement agencies are formally charged with the prevention and control of crime. To this end, they respond to reports of criminal activity, investigate these reports, and make arrests when appropriate. Then, courts determine criminal charges, decide guilt of the accused, and impose criminal sanctions. Finally, correctional agencies administer these penalties through control, custody, and supervision.

COMPONENTS OF CORRECTIONS

Corrections refers to the myriad policies, programming, services, organizations, and facilities designed for individuals who are accused and



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convicted of crimes. Correctional programs are administered by all levels of government—local, state, and federal. Common correctional options and other restrictions placed on offenders are illustrated in Figure 1.1. Very minor offenders may lose driving privileges as a punishment measure. First-time shoplifters may be ordered to probation for one year, pay court costs, pay a fee for probation supervision, and report face-to-face to a probation officer monthly. The probation department would monitor the offender’s criminal activity, his or her payment of fees, and so on. Felons may be placed under home confinement with electronic monitoring, perform community service, and serve weekends in jail. These sanctions and restrictions can be used in any number of different combinations and judges have considerable discretion in their application.

The most commonly used correctional options are illustrated in Figure 1.2. These options are classified into three categories: incarceration, community corrections, and intermediate sanctions programs. Incarceration refers to jails and prisons. The term community corrections refers to a variety of programs that are outside of jails and prisons. These are most notably probation and parole and can include community-based treatment programs. The third category is the subject of this text. Intermediate sanctions are designed for persons who require more supervision and control than community corrections but less supervision and control than incarceration. Although it can be argued that many community correctional programs are intermediate sanctions because they are designed to divert offenders from more intrusive penalties, there is general agreement that intermediate sanctions are made up of a set of eight correctional options falling between probation and incarceration. Figure 1.2 illustrates the correctional options on a continuum, because they vary in the type and amount of control placed over an offender’s behavior. Options to the left, such as probation, offer the least amount of control over offenders and are considered the least severe sanctions. Moving toward the right side, the options become more punitive. Incarceration, for example, is typically reserved for the serious or repeat offender. The continuum of sanctions enables judges to choose punishments that fit the crime and offender.

Especially for adults, incarceration, community corrections, and intermediate sanctions are being used more now than ever before. The number of offenders involved in these programs has increased dramati-

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Type		Example
Restrictions on the offender's behavior		Limits on travel (e.g. outside of county; to specific places; at certain times) Limits on social interaction with people (e.g. gang members, convicted offenders, other known offenders) Loss of driving privileges for a certain length of time or during certain hours Limits on the possession of weapons Limits on the use of alcohol
Monetary Penalties		Restitution Fines Forfeitures Support payments Court costs Supervision fees
Work-Related Measures		Community service Requirement to remain gainfully employed
Education-Related Measures		Enrollment in academic program (e.g., basic literacy, GED, English as second language) Enrollment in vocational training
Treatment Measures		Enrollment in substance abuse treatment Enrollment in psychological or psychiatric counseling
Physical Confinement Measures	Partial/Intermittent Confinement	Split sentences, intermittent confinement Home curfew Day reporting center Halfway house Restitution center Outpatient treatment facility (e.g., mental health, drug)
	Full/Continuous Confinement	Home confinement (i.e., full curfew) Other residential treatment (e.g., drug/alcohol) Boot camp (i.e., shock incarceration) Jail/Prison
Compliance and Monitoring Measures	Required of offender	Mail reporting Phone reporting Face-to-face reporting Urine analysis (random; routine)
	Required of agency	Criminal records checks Sentence compliance checks (payment of monetary penalties; attendance/participation/performance at treatment, work, or educational sites) Third-party checks (family, employer, service/treatment provider) Direct surveillance/observation (random/routine visits) Electronic monitoring (active, passive)

Adapted from Hartland, 1998

Figure 1.1. Various Restrictions and Sanctions for Criminal Offenders

cally over the past three decades. According to the Bureau of Justice Statistics, more than 6.5 million adults were incarcerated, on probation, or on parole at the end of 2001: about 63,240 in jails, just over 1.3 million in prisons, 732,351 on parole, and more than 3.9 million on probation (Glaze, 2002). These figures are the best estimates of the adult correctional populations in the United States but do not accurately account for the thousands of offenders in intermediate sanctions. The following section reviews the three correctional options beginning with incarceration, the most punitive and restrictive.

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Figure 1.2. Varieties of Correctional Options

Incarceration: Jail and Prison

Incarceration requires that a criminal offender remain housed in a secure facility for a certain length of time and with certain requirements and restrictions. Aside from temporary detention facilities and police lockups, the two options for incarceration include jail and prison. Jails and prisons differ according to inmate populations and administrative jurisdiction.

Jails are short-term confinement facilities typically housing convicted misdemeanants and unconvicted defendants during court processing. At midyear 2001, jails housed 631,240 people (Beck, Karberg, & Harrison, 2002). More than half (59%) had not been convicted of crimes. They were awaiting court action on their current charge. Officially these inmates are detainees. Persons are detained during court proceedings for two main reasons: (1) they cannot afford bail; or (2) they pose a danger to society and a risk of fleeing the jurisdiction while their case is being tried. The remaining 41% of jail inmates were serving a sentence, usually for a misdemeanor, or were awaiting sentencing for a crime. Misdemeanants usually serve jail terms of less than one year. A variety of persons are housed in jails and include:

- Persons awaiting arraignment, trial, or sentencing;
- Convicted felons awaiting transfer to state and federal prisons;
- Probation and parole violators proceeding through revocation hearings;
- Bail bond violators;
- Persons awaiting transfer to federal, medical, juvenile, military, and other correctional facilities;
- Persons held for protective custody, for contempt of courts, and crime witnesses;
- Convicted felons from federal and state facilities due to crowding;
- Persons sentenced for misdemeanors generally under one year; and
- Persons sentenced to a short jail term for a felony (a split sentence).

The sheriff's department runs the majority of jails at the county level. Jails also operate at the city and regional levels. There is no equivalent to the local jail at the federal level. Private agencies play a small role in jail administration. In very rural areas and where correctional

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populations are very low, two adjoining counties might decide to pool resources for the operation of a regional jail that would serve both counties. There are more than 3300 jails in the United States (Stephan, 2001).

Prisons are long-term confinement facilities housing felony offenders and parole violators serving sentences of greater than one year. At midyear 2001 there were 1,334,255 men and women in state and federal prisons (Beck, Karberg, & Harrison, 2002). By design, prisons are intended for offenders who have been convicted of felonies and who are serving sentences of more than one year. A small number of prison inmates are serving sentences of less than one year because of overcrowding in local jails.

A common misconception is that prisons are filled with dangerous and violent offenders. According to recent statistics (Beck & Harrison, 2001), violent offenders make up less than half (about 48%) of all prisoners in state jails. These offenders are serving time for crimes such as robbery, assault, and murder. The remaining 52% of sentenced prisoners are primarily property, drug, and public order offenders. Common property offenses include burglary, larceny, motor vehicle theft, possession and sale of stolen property, trespassing, and vandalism. Public-order offenses include such crimes as drunk driving, escape, obstruction of justice, weapons-related offenses, and liquor law violations. A fair number of newly admitted prisoners are persons who were released from prison on parole and who were returned to prison as a result of a parole violation, such as a new crime.

The federal government and state government operate prisons. Private companies also operate prisons for the federal government and the state governments. Federal prisons house offenders convicted or accused of federal offenses. According to the Bureau of Justice Statistics (Beck, Karberg, & Harrison, 2002), federal prisoners represent about 11% of all prisoners. More than one million people, (about 89% of all prisoners) are housed in state facilities. Compared to jails, prisons are typically larger and range in custody level from minimum security to super maximum security where the nation's most dangerous offenders are confined. At the end of 2000, there were 1,558 state facilities and 84 federal facilities operating in the United States (Beck & Harrison, 2001).

Community Corrections: Probation and Parole

Probation refers to the action of suspending a sentence and allowing the offender to serve the sanctions imposed by the court while living in the community. It involves supervision by probation departments and is the most commonly used correctional option. During the period of community supervision, probationers are required to abide by certain court-imposed conditions, such as maintaining employment and reporting to a probation officer. An array of other conditions may be imposed, including community service and restitution. A probationer who violates conditions may have the sentence revoked and be subject to imprisonment. A judge decides revocation after conducting a hearing.

Probation is mainly used for convicted offenders and less frequently as a means to supervise offenders who have not yet been convicted of crimes. Often, defendants proceeding through court who are not detained in jail are subject to probation supervision as a condition of their pretrial release. Though not technically criminal offenders because they are still unconvicted, they would be required to abide by many of the same restrictions and conditions as convicted offenders. Probation can also be used with incarceration in different ways: split sentences and intermittent sentences. An offender given a split sentence would be incarcerated for a short period (usually six months) before beginning the probation supervision. Intermittent incarceration requires offenders on probation to spend nights or weekends in jail.

More than 3.9 million adults were on probation at the end of 2001 (Glaze, 2002). Before the 1980s, probationers were typically misdemeanor offenders seen as posing little risk to public safety. Now, supervision of offenders with lengthier criminal histories and felony-level offenses is the norm. In 1986, probation was granted to 46% of all convicted felons (Petersilia, 1998). At the end of 2001, according to Glaze, 53% of all probationers had been convicted of a felony.

The administration of probation is not as clear-cut as the administration of prisons and jails. There are three models for the administration of probation in the states: state-administered, local-administered, and mixed models. According to McCarthy, McCarthy, and Leone (2001) in the most states (25) probation administration rests with the state government. Nineteen states follow the mixed model, where probation administration is a function of some combination of state, county, and city governments. In nine states, county governments operate proba-



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tion in the local-administered model. The Federal Probation Service supervises federal probationers.

Parole refers to the conditional release of a prisoner after some portion of the prison sentence has been served. Parole is also referred to as community or supervised release, which involves a period of supervision following a prison term. After being released from prison, parolees are placed on community supervision and must abide by certain conditions and restrictions, much like probationers. Prisoners who have completed their entire prison terms are not normally subject to parole supervision. Most prisoners are released from prison early and subject to community supervision; at yearend 2001, 732,351 offenders were on parole (Glaze, 2002). Inmates are released early from prison to parole in one of two ways: discretionary release and mandatory supervised release. With discretionary release, the parole board makes the decision to release a prisoner early to community supervision. Only about 37% of parolees were released in this way in 2001. The remaining 63% of parolees were released from prison under supervised mandatory release. This involves a legislative rule allowing early release for prisoners who have completed a certain proportion of their sentences (usually 85%). With changes in sentencing policy, many states have eliminated or restricted discretionary release. According to a recent federal report, 14 states have abolished discretionary release for all offenders (Ditton & Wilson, 1999), and several others, such as New York and Virginia, have abolished early release of certain violent felony offenders. In addition to diminishing or eliminating the release powers of the parole board, recent laws restrict or abolish the practice of crediting inmates with “good time” to reduce their time spent under custody.

Following release from prison, the amount of time a parolee must serve on parole varies and may be for the period remaining on the original sentence. An offender sentenced to five years in prison and released on parole after three years might serve the two years remaining on his or her sentence under parole supervision.

Parole operates much like probation but is administered at the state level. The primary difference is that all parolees have served a prison term and that nearly all parolees had been convicted of a felony. Like probation, parole involves an array of conditions over an offender’s behavior, such as drug treatment and fines. Intermediate sanctions, such as home confinement, are also used for parolees. When a parolee fails

to abide by conditions or commits a new crime, the parole authority has the power to revoke parole after conducting a hearing. Revocation of parole could lead to reincarceration. At yearend 2001, less than half (46%) of adults leaving parole had successfully completed parole, 40% were revoked from parole and returned to prison, and the remainder had not completed parole for other reasons, such as having absconded or died (Glaze, 2002).

Intermediate Sanction Programs

Intermediate sanctions include a range of punishment options between probation and imprisonment. These programs are also referred to as intermediate penalties and intermediate punishments. The principal forms of intermediate sanctions include: intensive supervision programs (ISP); boot camps; day reporting centers; home confinement (with or without electronic monitoring); monetary penalties (fines and restitution); compulsory labor in the form of community service; and halfway houses.

Intensive Supervision Programs (ISP) provide for the intensive monitoring and surveillance of criminal offenders usually by a probation or parole supervision officer. ISP is used by probation and parole agencies. Is often referred to as Intensive Supervision Probation and Intensive Supervision Parole. ISP is a more restrictive form of probation and parole for the higher risk offender. While on ISP, offenders are required to abide by strict rules such as refraining from drinking alcohol, and regulations such as reporting to a probation officer weekly. Fines and other intermediate sanctions are usually added to this sanction.

Boot Camps represent a residential intermediate sanction program. Typically used for young offenders, boot camps provide for very structured and military-like activities focusing on discipline, physical labor, and education.

Day Reporting Centers combine high levels of control with intensive delivery of services. They require offenders to report to a specific location on a routine, prearranged basis, usually daily, where they participate in structured activities such as counseling and job training.



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Home Confinement/House Arrest requires offenders to remain under curfew usually in their homes for a specified number of hours per day or week. They may be permitted to leave for approved activities such as employment and religious services.

Electronic Monitoring is not a criminal sanction. Rather, it is a means to monitor the offenders' presence in a proscribed location and is used with home confinement and other intermediate sanctions, such as ISP.

Fines are financial penalties requiring offenders to make payments to the court. Fines are usually based on the seriousness of the crime committed but can also be based on the offender's income.

Restitution refers to compensation for financial, physical, or emotional loss suffered by a crime victim. The compensation is usually financial whereby an offender makes payments, usually through the court, to the victim.

Community Service is compulsory, free, or donated labor on the part of an offender as punishment for a crime. An offender under a community service order would perform labor for a certain length of time at charitable not-for-profit agencies, such as domestic violence shelters, or governmental offices, such as courthouses.

Halfway Houses/Community Correctional Centers are community-based, minimum-security residential facilities that provide offenders and released inmates with housing, some treatment services, and access to community resources for employment and education.

Each of these programs can be used on its own as a penalty or in conjunction with other correctional options, mainly probation and parole. Typically, offenders given intermediate sanctions are under some form of probation supervision, whether it is regular probation or intensive supervision probation. They are assigned conditions that include home confinement, electronic monitoring, and other intermediate sanctions. For instance, an offender on ISP may also be required to pay restitution and perform community service when he or she is financially able to make restitution and can perform the types of labor that could benefit the community.



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Traditionally, intermediate sanctions are designed for offenders who require a correctional option that is more punitive and restrictive than routine probation but less severe than imprisonment. But, intermediate sanctions are used for a variety of offenders:

- Persons accused of crimes and released into the community during court proceedings;
- Persons convicted of misdemeanors and felonies directly sentenced to an intermediate sanction;
- Persons on probation;
- Jail inmates;
- Prison inmates; and
- Persons on parole.

Unlike probation and parole where statistics are readily available, it is difficult to accurately determine the number of offenders involved in intermediate sanctions or even the number of intermediate sanctions that exist in different areas. This is because the intermediate sanctions system is varied, complex, and dynamic. Suffice it to say, there are thousands of offenders involved in intermediate sanctions on any given day. According to the Bureau of Justice Statistics (Beck, Karberg, & Harrison, 2002), 25% of the adults supervised by jail staff who were not housed in jails were participating in required community service (17,561 adults) and 14% were under electronic monitoring (10,017 adults).

The administration of prisons, jails, probation, and parole is clearly designated in each state as a local or state agency responsibility. For instance, adult probation in Texas is operated by 122 Community Supervision and Corrections Departments (CSCDs) at the county level and administered by the Criminal Justice Assistance Division of the Texas Department of Criminal Justice at the state level. Jails in Texas are normally operated at the county level and prisons are administered by the state. The administration of intermediate sanctions is not as clearly defined and involves all levels of government. Since ISP is the most commonly used intermediate sanction program and is usually administered by probation departments, we could assume that probation departments play the major role in the administration of intermediate sanctions. Despite the lack of uniform information, it appears that every state incorporates intermediate sanctions and that the use of such programs has been expanding rapidly since the 1980s.