

SUMMARIZING RAND'S STUDY OF ADULT FELONY PROBATION

Joan Petersilia

April 1985

The Rand Paper Series

Papers are issued by The Rand Corporation as a service to its professional staff. Their purpose is to facilitate the exchange of ideas among those who share the author's research interests; Papers are not reports prepared in fulfillment of Rand's contracts or grants. Views expressed in a Paper are the author's own and are not necessarily shared by Rand or its research sponsors.

The Rand Corporation, 1700 Main Street, P.O. Box 2138, Santa Monica, CA 90406-2138

Summarizing Rand's Study of Adult Felony Probation

by Joan Petersilia

April 1985

SLIDE 1: TITLE

The results I'm going to discuss today come from a recently completed research project sponsored by the National Institute of Justice. Complete results are contained in the report *Granting Felons Probation: Public Risks and Alternatives*.¹

The general topic of the research--probation--may not at first be in the mainstream of criminal justice thinking, where selective incapacitation and career criminals have occupied most of our policy attention. These topics have occupied most of our research attention at Rand as well. And focusing on these topics has contributed to a great extent to the situation we now find ourselves in--increased crime, but overcrowded prisons.

With courts limiting existing prison capacity and financing limiting the ability to build more prisons, probation is being increasingly used to "catch the overflow."

¹Complete results are contained in *Granting Felons Probation: Public Risks and Alternatives* by Joan Petersilia, Susan Turner, James Kahan, and Joyce Peterson, R-3186-NIJ, The Rand Corporation, January 1985. The report can be obtained by writing Rand, 1700 Main Street, Santa Monica, California, 90406.

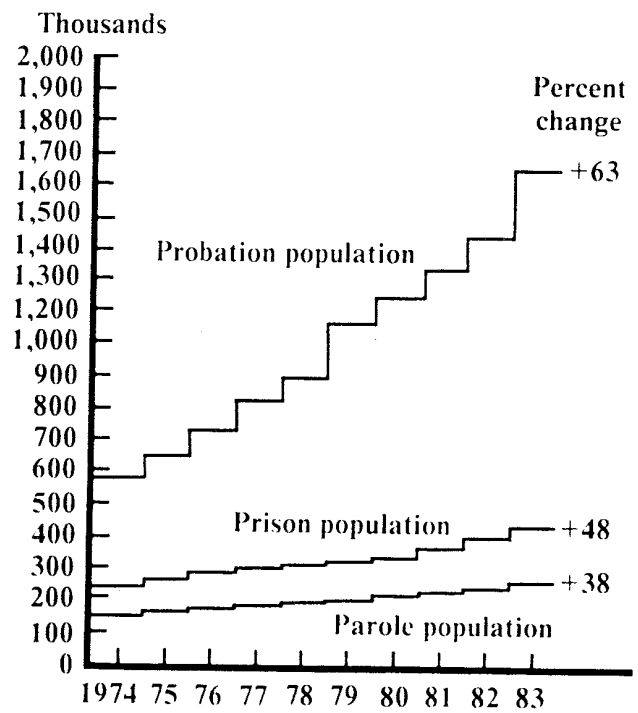
Why the Study?

- **Understanding how well probation works for felons is a compelling public safety issue**
 - **Probation officers manage serious offenders — 40% of all adult probationers are convicted in Superior Court**
 - **Can probation restrain them from future crime?**
 - **No one knew: there were no studies of felony probation**
-

SLIDE 2: WHY THE STUDY?

Understanding how well probation works for felons is a compelling public safety issue. Probation officers now manage rather serious offenders-- 40 percent of all adult probationers have been convicted of felonies, as opposed to misdemeanors. Can probation restrain these persons from future crime? Unfortunately, past research provides little help in answering this question. Probation has been called the "understudied" component of the criminal justice system. There are few studies of probation in general, and those that have been done either discuss the effects of caseload size on behavior, or deal with probation in general-- not concentrating on the types of serious offenders we are interested in.

Change in U.S. Parole, Probation, and Prison Populations, 1974-1983



SLIDE 3: GROWTH IN PRISON

While prison crowding is a matter of common knowledge and concern, few people are aware that probation populations are equally overburdened. Probation has been growing at a rate 30 percent faster than prisons-- and there are now 4 times as many probationers as prisoners.

However, this growth does not imply public or financial support. Probation has little public support, understandably so, given the public's current zeal for harsher penalties. And probation is commonly seen as "lenient." As a result, most probation agencies have had their budgets cut while their caseloads continue to grow.

A nationwide study shows that probation agencies have suffered greater budgetary cutbacks in the last decade than any other facet of criminal justice. But prison crowding and the increased use of probation for serious adults has focused renewed attention on probation. There is interest in knowing (1) how well is probation doing with adult felons, and (2) do any of its programs hold promise for reducing prison commitments?

In order to answer those questions intelligently, we need more information than is currently available on probation practices and their effects. The study I am going to report on today was funded by NIJ to provide such information.

Major Research Questions

- ➔ 1. What distinguishes felons granted probation from those sent to prison?
 - 2. Are the courts consistent in the prison/probation decision?
 - ➔ 3. How well do felons behave on probation?
 - 4. What characteristics are associated with recidivism?
 - ➔ 5. How accurately can statistical models predict which felons will recidivate?
 - ➔ 6. If felony probation is unacceptable, are alternatives available?
-

SLIDE 4: MAJOR RESEARCH QUESTIONS

When we began the study nearly 3 years ago, it became immediately apparent how very little was known about adult probation--e.g., who gets it, who succeeds on it. Our study was designed to answer six basic major questions about probation services. The four questions I am going to discuss today are indicated with arrows. I have chosen those specifically because I believe their findings have the broadest policy implications.

First, what distinguishes felons granted probation from those sentenced to prison, when both offenders have been convicted of the same crime? Second, are the courts consistent in the way they make the prison/probation decision? Third, how well do felons granted probation actually behave in the community? Fourth, what characteristics are associated with recidivism? Fifth, how accurately can statistical models, based on detailed offender and offense information, predict which felons will succeed and fail on probation? And, finally, if these results suggest that felony probation poses unacceptable public safety risks, are there any more promising alternatives?

California's Probation Situation

- **70% of all persons convicted are granted probation**
 - **1% of all Californians now on probation**
 - **Probation population increasing in numbers and seriousness**
 - **Cj expenditures up, probation expenditures down**
-

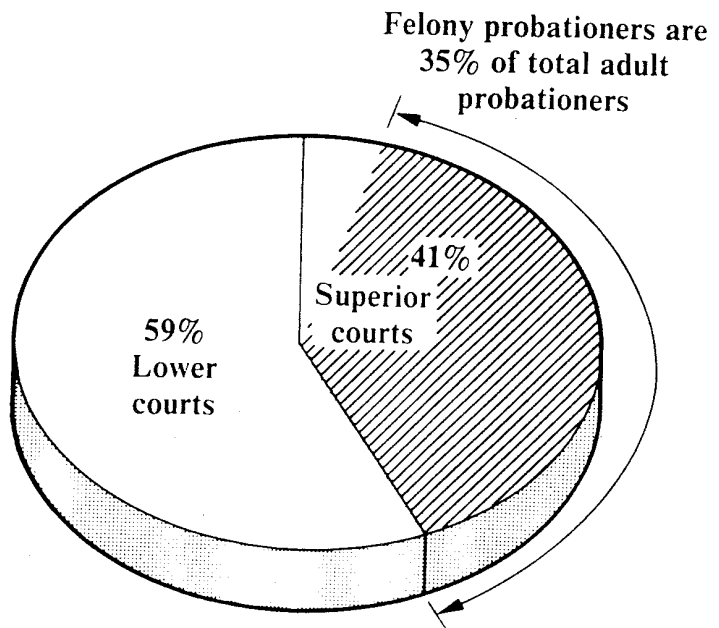
SLIDE 5: CALIFORNIA'S PROBATION SITUATION

We chose to conduct our study in California. California's probation situation basically mirrors that of the nation. However, it is a little more aggravated given voluminous caseloads and reduced resources. In California, as is common across the country, 70 percent of all persons convicted are granted probation, with or without jail time imposed. That number is so large, that by 1985 *one* percent of all Californians between the ages of 9 and 65 were on probation.

Probation population has risen dramatically in California, increasing 11 percent last year. But with this growth, came virtually no increase in budgets--these additional 30,000 persons simply were "absorbed" in already overburdened probation caseloads.

California criminal justice expenditures increased (since 1975) 30 percent; but probation has actually experienced a 10 percent decline in real dollars since that time.

**Study
Population**



SLIDE 6: STUDY POPULATION

I want to make clear the study population that we are looking at. Our results do not pertain to all probationers--the majority of which are juveniles and misdemeanants. Rather, I am talking about *adults* and only adults convicted in Superior Court of six index crimes. Our study population equals about 35 percent of California's adult probation population. So our study really examines how the most serious subset of probationers behaves on probation supervision.

**What
Determines
Prison/
Probation?**

**Data: California Superior Court
Sentencing Practices**

- 16,500 males convicted in Superior Court of one of six index crimes
- Representative of California Superior Court convictions
- 235 items recorded about each offender

Method

- Multiple regression, within crime type
-

SLIDE 7: WHAT DETERMINES PRISON/PROBATION

Our first research question is: when two people have committed the same offense, what determines that one of them should go to prison and the other be put on probation? The database we analyzed represents all California Superior Court convictions in 1980. The database consisted of 16,500 males who were convicted in Superior Court in 17 California counties. We had very detailed information (over 235 information items) on each offender, his offense, his prior record, his victim, etc. We then conducted multiple regression analysis within crime type, to determine the factors associated with the prison/probation decision. (The data were supplied to Rand by the California Board of Prison Terms.)

Basic Factors Associated with Imprisonment

	Assault	Robbery	Burglary	Theft	Forgery	Drugs
2+ conviction counts	+	+	+	+	+	+
2-5 adult convictions	+	+	+	+	+	+
On adult parole	+	+	+	+	+	
Related victim	-				-	
Armed with gun		+				
Used weapon		+	+			
Victim seriously injured	+	+				
Drug influence	+					
Drug addict		+		+		
Black	+	+	+	+		

SLIDE 8: BASIC FACTORS ASSOCIATED WITH IMPRISONMENT

The pluses (+) in this table are associated with receiving a prison term; the minuses (-) with being granted probation. Basically, from the very detailed information we had available (over 235 information items), very few of the factors are used to make the prison/probation decision. Note that the first three items--having multiple conviction counts, having two or more prior adult convictions, and being on adult parole at the time of the current arrest, are the three most important factors for all of our six study crimes. In fact, once you have more than three of the items listed on this table, the probability of going to prison increases to 80 percent, regardless of the current crime type.

Having a related victim reduced the probability of imprisonment for assault and forgery. Being armed with a gun, or using any type of weapon increased the chances of imprisonment in robbery and burglary, as did victim injury and being under the influence of drugs, or being a drug addict. And our results show that being black, even when the other basic facts of the case have been statistically controlled, increased the probability of being sentenced to prison after a conviction for these study crimes.

Process Factors Associated with Imprisonment

	Assault	Robbery	Burglary	Theft	Forgery	Drugs
No private attorney	+	+	+	+	+	+
No pre-release	+	+	+	+	+	+
Went to trial	+	+	+	+	+	+

SLIDE 9: PROCESS FACTORS ASSOCIATED WITH IMPRISONMENT

We also had data on the way in which the case was handled by the court, or what we call "process factors." Controlling for the basic case factors, we still found statistically significant effects for having: no private attorney, not obtaining pretrial release, and going to trial. All of these three factors increased the probability of being sentenced to prison, upon conviction.

**Controlling
for Previous
Factors, No
Effects for:**

- Age
 - Juvenile record (except parole)
 - Education, employment, income, occupation, marital status
 - Accomplices
 - Extent of loss, victims' sex or vulnerability
-

SLIDE 10: CONTROLLING FOR PREVIOUS FACTORS, NO EFFECTS FOR...

Interestingly, some of the factors that we had thought would be related to the imprisonment decision were not so. Once we had controlled for the basic factors discussed earlier, the defendants' age, whether or not they had a juvenile record, their education, employment, whether or not they committed their crime alone or with accomplices, the extent of financial loss, or the victims' sex or vulnerability (e.g., elderly) were not statistically significant in the prison/probation decision.

I think these results are consistent with California's Determinant Sentence Law which basically moves towards "just deserts" and states that the prison/probation decision is to be primarily determined by current offense severity and prior criminal record. Our results show that this is exactly what is happening in practice.

How Well Do Felons Do on Probation?

Method

- Tracked probationers in LA and Alameda (N = 1672*)
- Obtained rap sheets
- Recorded arrests, filings, convictions, and incarcerations

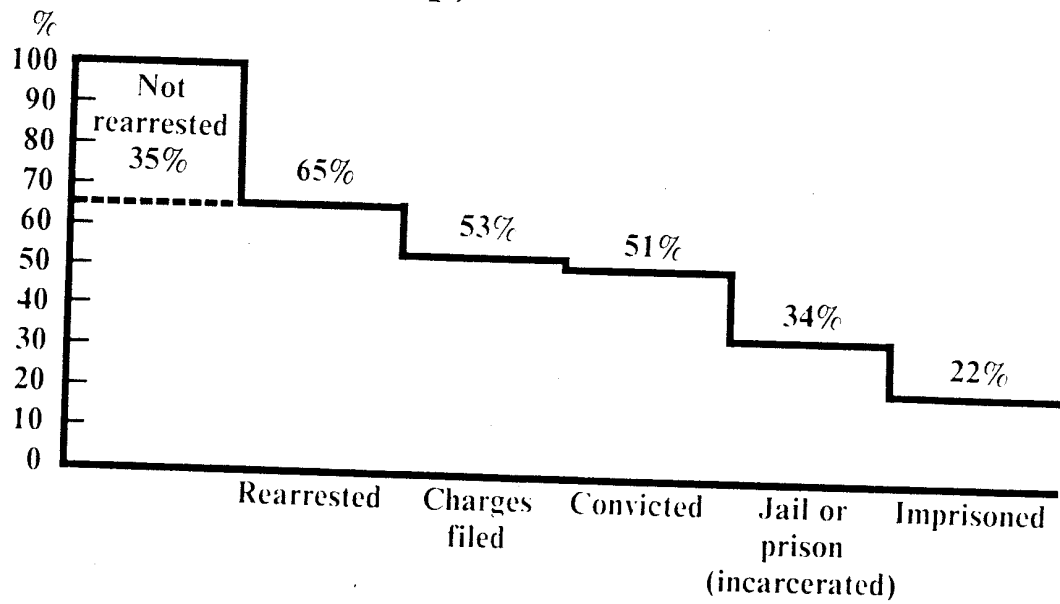
* Weighted sample size
(unweighted = 672)

SLIDE 11: HOW WELL DO FELONS DO ON PROBATION?

The second question is how well do adult felony probationers behave once in the community. We selected two of California's largest counties, Los Angeles and Alameda, and tracked for a 40-month period a sample of adult felony probationers. We then obtained their state rap sheets (i.e., criminal records) and recorded all arrests, filings, convictions, and incarcerations since their probationary grant. Nearly all of our probation sample were formally on probation status during the entire follow-up period--the most common probation sentence was 6 months in jail and 3 years probation.)

Los Angeles and Alameda are not typical of California counties in general--they have larger populations and operate with less adequate resources than most other counties. Thus, their results should not be overly generalized. But these two counties supervise over 40 percent of the California probation population and, as such, provide a good basis for learning about adult felony probation.

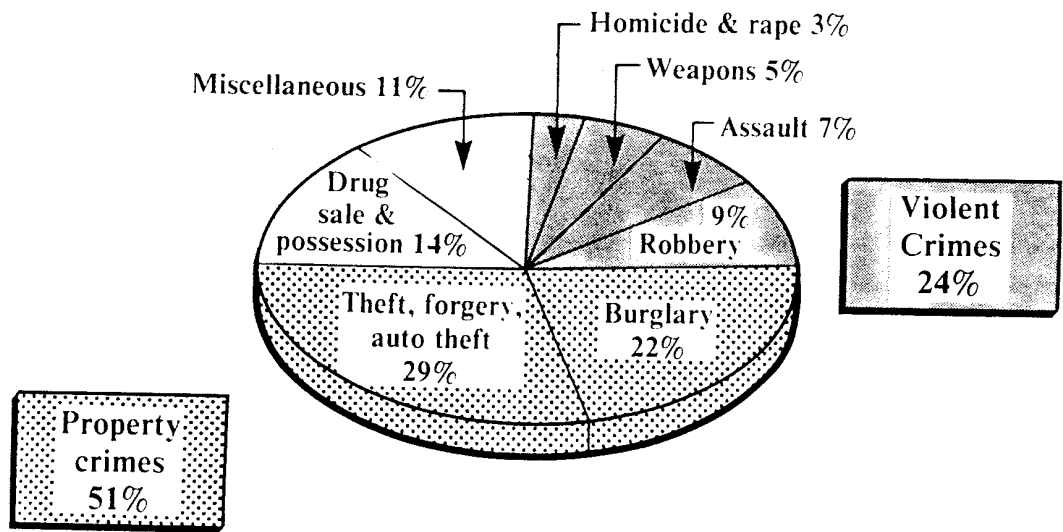
Felony Probationer Recidivism Rates (40 Month Follow-up)



SLIDE 12: FELONY PROBATIONER RECIDIVISM RATES

The recidivism results are not encouraging: 65 percent of our sampled probationers were rearrested during the 40-month follow-up; 51 percent have been reconvicted. And by the end of our follow-up period, 35 percent of them had been incarcerated in jail or prison (nearly one-quarter ended up in prison). Of those who were reconvicted, nearly a third of them were placed back on probation.

Type of Probationer's Filed Charges

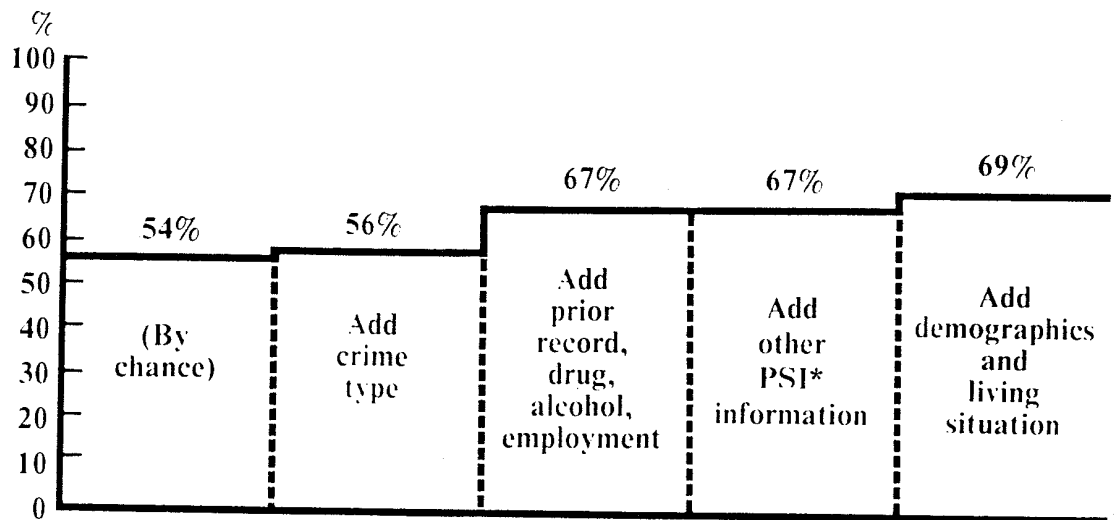


Source: Los Angeles and Alameda Counties

SLIDE 13: TYPE OF PROBATIONER'S FILED CHARGES

And the crimes they committed were not trivial. Twenty-four percent of the filed charges were for violent crimes. Fifty-one percent were for property crimes, 14 percent were for drug possession, 11 percent were for other miscellaneous (drunk driving constituted a large segment of the miscellaneous category). And, remember that these are the filed charges--the actual crimes they committed or even were arrested for are likely to look more serious.

Statistical Ability to Correctly Predict Rearrests



*Presentence investigation

SLIDE 14: STATISTICAL ABILITY TO CORRECTLY PREDICT REARRESTS

One of our interests was to see how well we could statistically predict who would recidivate and who would not. Basically, we took all of the offense and offender information we had and entered it into a hierarchical regression model where we added, first, the crime type; second, prior criminal record, employment, alcohol and drug use; third, other PSI (presentence investigation) information, such as whether or not the individual had been recommended for probation in his PSI report; and finally we added his living situation, age, and race to see how well statistical models could predict the recidivist. This graph shows how well our model predicted rearrests; (similar results were obtained when we tried to predict reconvictions and reconvictions for violent crimes). Basically, our models never got better than 71 percent accuracy. They were 69 percent accurate in predicting arrests, but that's only about 15 percent greater than we would have done by chance. While we can get to about 70 percent accuracy, our models are by no means perfect, although they are as good as or better than prior research of this type has obtained. Our predictive accuracy was highest for offenders originally convicted of drug crimes.)

Interestingly, knowing the probation officer's sentence recommendation (for or against the granting of probation) did little to improve our recidivism prediction, once the offender's background and criminal history had been statistically controlled. Sixty-three percent of those recommended for probation in the PSI report were subsequently rearrested, as compared with 67 percent of those recommended for prison.

How Many Prisoners Can Safely be Released?

- We simulated “good probation prospect” model for all incoming prisoners
 - Estimates the number of prisoners who had characteristics similar to those of successful probationers (i.e. 75% chance of no new convictions)
 - Only 3% of incoming 1980 California prisoners qualified
-

SLIDE 15: HOW MANY PRISONERS CAN SAFELY BE RELEASED?

Given what we now know about the characteristics associated with success on probation, we were interested in knowing how many persons sentenced to prison would have been good risks for probation. We simulated our "good probation prospect model" for all 1980 incoming California prisoners. This allowed us to estimate the number of prisoners who had characteristics similar to those of our successful probationers. The criteria we used for "success" was a 75 percent chance or better of having no new convictions while on probation.

The results showed that only 3 percent of California's incoming prisoners could have successfully completed probation (as administered in the study counties). That finding will be disappointing to those who believe that the courts are imprisoning petty criminals who could be released under community supervision with little threat to the public.

The Dilemma . . .

- Probation populations increasing, budgets shrinking
 - With prisons overcrowded, probation is “catching the overflow”
 - Most of the probationers we studied had high recidivism
 - Our ability to predict which felons will succeed on probation is limited
 - Prisons are full, and few entering prison are good probation prospects
 - Rethinking the CJS’s response to felony probationers is clearly in order
-

SLIDE 16: THE DILEMMA...

These results pose a dilemma for criminal justice policy. Probation populations are increasing, while budgets are shrinking. Prisons are overcrowded and probation is catching the overflow. Most of the felony probationers we studied had high recidivism rates. And our ability to statistically predict who will succeed and who will fail reaches only about 70 percent. Prisons are full and few of those entering prison appear good probation prospects. I believe rethinking our response to felony probationers is clearly in order.

**Possible
Policy
Choices**

**Maintain current sentencing
policies**

**Increase imprisonment rates for
convicted felons**

**Develop Intermediate Punishment
Programs**

- **E.g. Intensive Community
Surveillance, House Arrest**
-

SLIDE 17: POSSIBLE POLICY CHOICES

It is clear that routine probation, as administered in these two counties, is not working--we need something which encompasses greater control and can assure more offender accountability, while at the same time being less expensive than prison.

The first option is to maintain current sentencing practice--but given the results we have seen, such "status quo" sentencing policies are having serious consequences for public safety. Clearly, we can anticipate victims being hurt--the 1672 probationers we studied committed 235 armed robberies and 175 assaults during approximately 30 months on the street.

The second option is to place a greater number of these felony probationers in prison. Some might argue that these recidivism rates justify greater imprisonment for such felons. But with 30 states currently under court order to reduce crowded facilities, states are using all available resources to construct constitutionally acceptable housing for the current prison population. As these options become available, they will be urgently needed to relieve overcrowded prisons, so it seems less than realistic to suggest that prison space be used to house felony probationers as well. Also, building more prisons, even less expensive ones, takes time, and the need is immediate.

Another option is to create something "intermediate" between prison and routine probation. These "fortified" probation programs are clearly designed to be punitive for participating offenders and exert enough surveillance over the offender's behavior, so that the public's safety is not jeopardized. A number of Intermediate Punishment Programs have been developed in the past several years--several states now have such program in place, e.g., Georgia, Ohio, Washington, Texas, New Jersey. The notion behind such programs is to create a probation program with "teeth" in it, something that helps change the perception of probation as a "slap on the wrist" to that of a viable alternative to prison.

New Jersey's Intensive Surveillance Program (ISP)

- Begun in 1983, designed for 300-500
 - Nonviolent offenders eligible after 60 days in prison
 - Costs \$3000 per year/per offender, with "user fees"
 - Requires Community Sponsor and Network Team
 - Calls for 4-5 contacts/week, can impose house arrest
 - Offender on bench warrant
 - Offender must succeed in ISP for one year
 - Need to resolve cost, public acceptance, clientele, staffing
-

SLIDE 18: NEW JERSEY'S INTENSIVE SURVEILLANCE PROGRAM

The New Jersey program is one of the newer ones that incorporates some interesting aspects. New Jersey's program was begun in 1983. Persons who are sentenced to prison for nonviolent crimes can apply to the ISP program after having served 60 days in prison. It costs about \$3,000 per year per offender; and the offender is charged a supervision fee. (Twenty-three states are now charging probation supervision fees.) Participants must maintain employment, name a community sponsor with whom they will live, provide community service, attend counseling, and pay victim restitution. The Probation Department contacts the individual four or five times per week and monitors a house curfew--the offender is required to be in his house from 10:00 p.m. to 6:00 a.m. each day. While in the program, the individual is formally on bench warrant status and can be easily revoked to serve his imposed prison term by any judge authorized to sign bench warrants. The offender must succeed in the ISP program for one year before being allowed to remain in the community under less stringent requirements.

Of the 225 persons who have participated in the program during its first 14 months, 13 percent have been returned to prison, only one for an indictable offense (others have been for curfew or drug violations).

It is clear that such intensive supervision programs will be more expensive than traditional probation--which runs about \$1000 per year, per offender. These fortified probation programs run about \$4,000-\$5,000 per year, but operation costs for prison run about \$15,000 per year (exclusive of construction costs). Importantly, because such programs require offenders to be gainfully employed, they may actually rehabilitate some of their participants, who may have just become more hardened by the prison experience.

**Intermediate
Punishment
Programs
Deserve
Attention**

- **Timing is right**
 - Critical need
 - Research can differentiate offenders according to risk
 - **Key obstacles**
 - Public acceptance
 - Viable punishment
 - Adequate data
-

SLIDE 19: INTERMEDIATE PUNISHMENT PROGRAMS DESERVE ATTENTION

I believe that intermediate punishment programs deserve attention. The timing is right: there has never been a more critical financial need, and research has now begun to be able to differentiate offenders according to the risk they pose if allowed to remain in the community. This Rand project has developed such information--a scale if you will--to predict offender risk. The National Institute of Corrections has been working diligently to develop and implement risk prediction instruments. While such instruments are not perfect, as I have noted, they do allow us to better match punishment options to offenders with different risk profiles.

The major obstacles surrounding the development of ISP programs is public and judicial acceptance. It is commonly thought that if offenders are granted probation, they basically have escaped punishment altogether. To change this perception, the programs must be punitive, and show that they can exert enough offender control so that public safety is assured.

The last obstacle has to do with having data available to permit an adequate assessment of whether these alternative punishments actually work--can they actually prevent offenders' criminality, less expensively? Many of our past experiments--particularly in community corrections--have gone by the wayside because no one could ever demonstrate that they were better or worse than what they took the place of. ISPs must be accompanied by experimental design and strict evaluations.

If such programs prove effective, they may be one of the most significant experiments the criminal justice community witnesses in the next decade. In the longer run, they may allow us to restructure sentencing--where a spectrum of punishment options would exist to match the spectrum of criminality that we have begun to document among criminal offenders.

