Beyond Bricks, Bars, and Barbed Wire: The Genesis and Proliferation of Alternatives to Incarceration in the United States

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Much of the discussion concerning corrections in US academia, press, and politics concerns incarceration. Less discussed is the fact that of the 6.5 million people under correctional control, two-thirds are not in prisons or jails. Most sentenced offenders are supervised in the community – 3.84 million on probation, another 725,000 on parole (United States Department of Justice 2001).

Probation, parole and their variant “alternative sentences” are the doorway between prison and freedom in the community.¹ This essay outlines the historical roots of alternatives to incarceration, examines the range of community-based sanctions imposed today, and explores the unintended consequences of these sanctions.

THE COBBLER’S DREAM

To raise the fallen, reform the criminal, and so far as my humble abilities would allow, to transform the abode of suffering and misery to the home of happiness. (John Augustus 1984 [1852])

John Augustus, a successful bootmaker, sat in the gallery of Boston’s Police Court in August 1841 observing the machinations of justice. The courts at that time were greatly influenced by the temperance movement. Augustus witnessed a succession of “common drunkards” uniformly sentenced to the House of Correction while outside of the courts “some that pretend to be very temperate drink the worst.” He noticed a “ragged and wretched-looking man” and spoke with the drunk finding him “not yet past all hope of reformation, although his appearance and his looks precluded a belief in the minds of others that he
would ever be a man again” (emphasis in original). Augustus approached the judge and offered to “bail” the drunk in lieu of his being sent to the house of correction. The judge agreed on the condition that in three weeks the man return to court for sentencing. During this period of “probation” the man, with the help of Augustus, became sober and presented himself to the court “changed and no one, not even the scrutinizing officers, could have believed that he was the same person.” The judge, impressed with the former drunk and Augustus’s work, sentenced the man to a fine of one cent plus court fees (Augustus 1984 [1852]).

As he continued to haunt the courts, Augustus saw women being brought before the court for drunkenness while young boys were sent into the same prisons as adult convicts. He soon took up their causes as well, telling the courts he could do better at rehabilitating them than the prison. He diverted many women from prison (some later led the temperance movement under which they had faced prison time) and his business employed numerous boys otherwise destined for prison. He enlisted friends, clergy, and philanthropists to help meet the costs of bail, to supervise the probationers and to provide other necessary social supports to aid in the reformation of offenders (Augustus 1984 [1852]).

Augustus established many practices, programs, and mechanisms taken for granted today. He influenced bail procedures, conducted risk-assessments of potential probationers, outlined conditions for probation, kept meticulous records, and reported to the court on an individual’s progress; he provided intensive supervision, employment assistance, detoxification and substance abuse treatment, family therapy, and respite care. His work with young boys was the impetus for what 50 years later would become the juvenile court, and he also suggested specialized residential treatment for curing alcoholism as an alternative to prison.

John Augustus showed the court that alternatives to incarceration did exist, that incarceration is not the only correctional intervention that can change an offender’s behavior (he believed incarceration less likely to change behavior), and that alternatives involve a commitment of personal, social, and financial resources. Most importantly, he argued that prisons be reserved for those who cannot be punished and supervised otherwise.

The Proliferation of Probation

In 1878, Massachusetts passed the first statute mandating probation. Other states slowly passed similar legislation and by 1935 at least 30 states had probation for adults and 30 percent of all sentenced defendants were given probation. By 1965, every state had probation services, 25,000 probation officers were employed by the courts, and about half of those under correctional control were on probation (Cahalan 1986). In 1980 there were 1.1 million probationers, by 1990 almost 2.7 million (Petersilia 1997), and today there are 3.84 million on probation with another 725,000 on parole.

While probation was becoming standard criminal justice practice, the use of incarceration was also continually expanding. In 1860, 14 years after Augustus began his work, the rate of incarceration was 61 prisoners per 100,000 citizens.
It progressively increased until World War II. In the 1950s and early 1960s the rate rose to and stabilized at between 110 and 120 prisoners per 100,000. In the late 1960s the rate fell to below 100 but by 1974 it was rising rapidly. In 1980 the rate stood at 140 (Cahalan 1986). Over the next decade the rate more than doubled to 292 per 100,000 and today stands at 478 state and federal prisoners per 100,000 citizens. If those held in local jails are included in the rate it increases to nearly 700 (Beck and Harrison 2001). Clearly, the institutionalization and bureaucratization of alternatives expanded in their own right while simultaneously failing to quell the use of incarceration.

**Transforming Alternatives into Intermediate Sanctions**

Probation and parole came under attack during the 1970s and 1980s as the “nothing works” attitude concerning rehabilitation gained public and professional prominence (Wilson 1975). The rate of growth for probation slowed to roughly 2 percent per year and the caseloads of probation officers increased to unmanageable levels as funding for probation services fell precipitously relative to incarceration. Today, probation services receive less than 15 percent of corrections dollars while servicing two-thirds of those under correctional supervision (Center for Community Corrections 1997). Both an image makeover and operational redefinition were undertaken to save the beleaguered probation bureaucracy. Once perceived as passive and lenient, probation and its variants transformed from alternatives to prison into “intermediate sanctions” – punishments in their own right.

**Intensive supervision (ISP)**

Enhanced surveillance, control, and punishment of offenders beyond that provided through regular probation represent the backbone of intermediate sanctions. “Intensive supervision” probation [ISP] is now the most prevalent intermediate sanction” (Lurigio and Petersilia 1992: 6). While no two jurisdictions define intensive supervision the same way, all provide supervision that exceeds regular probation. In comparison with those on regular probation, ISP typically requires offenders to report more often on their whereabouts and behavior. Some are monitored more closely through telemetric equipment. Most are subject to frequent drug testing and most importantly, any violations of the conditions of their supervision are consequential.

Today, every state has some form of intensive supervision. The most notable distinctions between early intensive supervision programs and those established after 1980 involve a general de-emphasis of treatment and service delivery, a heightened emphasis on surveillance and offender accountability, and the establishment of a broader base of offenders to be supervised.

It is clear from the research on ISP that increased surveillance alone does not reduce recidivism – as typically measured by technical violations, new arrests, or reincarceration (see Gendreau et al. 1996; Fulton et al. 1997; MacKenzie 1997). Further, ISP does no better at reducing the recidivism of offenders sanctioned and supervised by other means, such as regular probation or incarceration (Fulton
et al. 1997). The increased surveillance used in ISP typically results in frequent technical violations\(^2\) for offenders – translating to higher revocation rates which are linked to higher rates of reincarceration (Latessa et al. 1997). However, there are indications that ISPs incorporating treatment and employment programming into their requirements can have a positive effect on recidivism (Fulton et al. 1997; MacKenzie 1997).

**Boot camps**

Boot camps attempt to change offenders’ behavior by imposing a brief, intense, sentence of imprisonment (90 to 180 days), followed by a period of community supervision. While incarcerated, participants are subjected to a daily regimen of strict discipline, military drill, and physical labor. Some programs also offer vocational and educational training or services (Gowdy 1993).

Boot camps have an enticing appeal: they are perceived as giving a stiff punishment, promoting discipline, teaching respect, and saving correctional resources – because of their brief duration. Boot camp supporters believe that militaristic discipline and training are associated with law-abiding behavior, and that the lessons and experiences of the program are transferable to regular life (Stinchcomb 1999).

The research on boot camps, however, does not support these views. Comprehensive reviews of boot camp programs demonstrate no significant differences in recidivism between offenders who have completed boot camps and those who serve their sentence either on probation or in prison (MacKenzie 1997). In some instances, boot camp participation has been shown to actually increase recidivism (Peters et al. 1997). The research on traditional boot camps should signal a swift retreat from this form of the sanction.

Exploratory research on programs that devote more than three hours per day to counseling drug treatment, or education coupled with some type of follow-up in the community after participants left the boot camp, show positive results (MacKenzie 1997).

**Community residential facilities (CRFs)**

Originally called “halfway houses,” community residential facilities, or CRFs, are an important part of the continuum of punishment, supervision, and treatment options (Dupont 1985). They are designed as transitional placements to facilitate the movement of the inmate from imprisonment to life in the community (Latessa and Travis 1992). For offenders leaving incarcerative settings, these facilities represent “halfway-out” houses. For those on probation they are “halfway-in” houses.

Lower costs than prison, the philosophy of reintegration, and the success of similar programs in the mental health field all contributed to the expansion and redefinition of halfway houses (Allen et al. 1978). This rise in the number of facilities, an expanding scope of services and supervision, and the increased diversity of clientele served by halfway houses necessitated a change in terminology to better reflect what these facilities are, and what they are not. Community residential facility is a broad term that more adequately
describes the changing role of traditional halfway houses (Latessa and Travis 1992).

According to Rush, a residential facility is “a correctional facility from which residents are regularly permitted to depart, unaccompanied by any official, for the purposes of using community resources, such as schools or treatment programs, and seeking or holding employment” (2000: 284). Note that this definition makes no reference to incarceration or provision of services within the facility. Traditional halfway houses do fall under this definition, but are also joined by pre-release centers, restitution centers, community corrections centers (CCCs), and community-based correctional facilities (CBCFs) – all categorized as CRFs.

Early residential facilities provided a transitional setting to help offenders adjust to life in the community where provision of treatment and reintegrative services were the focus. Now, the facilities themselves are sanctions, and the emphasis on rehabilitating offenders has been replaced by a focus on custody and control (Hicks 1987).

Research on the effectiveness of residential facilities at reducing recidivism and increasing prosocial behavior among participants is mixed at best (Allen et al. 1976; Seiter et al. 1977; Latessa and Allen 1982). Results from studies indicate “halfway house residents having lower recidivism rates and at times showing no differences or that halfway house residents did worse on recidivism rates” (MacKenzie 1997). In general, residential facilities monitor and provide services to more high-need and high-risk offenders (Latessa and Travis 1991). Unfortunately, many residential facilities do not adequately assess offender risk with few distinctions made between offenders based on risk. Many halfway house programs are considered to be just a step above “three hots and a cot” (three hot meals and a bed to sleep on – the inadequate, bare minimum). Such custody-orientated facilities outnumber those attempting to meet all the needs of the offenders they serve (Latessa 1998).

Day reporting centers (DRCs)

In 1986, Massachusetts borrowed the concept of day reporting centers (DRCs) from Great Britain (McDevitt 1988; McDevitt and Miliano 1992). Under the Massachusetts program DRCs were designed as a mechanism for early release from prison and jail for prisoners approaching their discharge or parole date (Latessa and Allen 1999). Initially a backdoor solution to institutional crowding, the clientele served by DRCs expanded to pretrial detainees and offenders with state prison sentences. DRCs involve a mixture of intensive supervision and treatment in a community setting, are operated by public and private agencies, and are used to supervise offenders on pretrial release, those on probation or work-release, and offenders on parole (Parent 1990, 1996).

DRCs have common program elements – contact and monitoring on a daily basis, formalized scheduling, offender accountability for his or her whereabouts, and drug testing. The function and operation of DRCs across the country, however, is varied and in many ways each center is unique to its jurisdiction and population served (McDevitt and Miliano 1992).
Survey data indicate that certain characteristics of DRCs are correlated with higher rates of negative terminations. The term “negative termination” refers to offenders removed from DRCs for violating program rules, which can include rearrest for a new crime. The survey, however, did not provide specific information on the rearrest rates of program participants, so it is not possible to differentiate those who committed a new crime from those who violated the rules (Parent et al. 1995). Compared to programs operated by public agencies, DRCs operated by private agencies experience high negative termination rates. DRCs with curfews and those having strict policies concerning violation of center rules also have higher negative termination rates. Finally, DRCs that offer more services and those that experience high staff turnover have higher rates of negative terminations (ibid.).

Latessa et al. (1998) compared offenders in Ohio DRC programs to offenders released from prison, those under intensive supervision, and offenders under regular probation. Incarceration rates of the DRC group were higher than the regular probation comparison group, lower than the group under intensive supervision, and very similar to the group of offenders released from prison. The evaluation found the quality of treatment provided by the Ohio’s DRCs to be poor and the use of increased surveillance coupled with little service delivery to be ineffective.

DRCs exemplify the potential advantages and pitfalls of intermediate sanctions. Both the strength and the weakness of the day reporting concept lie in its flexibility and adaptability to various community factors and clientele. DRCs are an easy sell as a “get tough” sanction and method of supervising offenders (Taxman and Byrne 2001). However, it is increasingly clear from the research on crime prevention and correctional intervention that punishment and intensive forms of supervision alone do not reduce recidivism, particularly when compared to interventions that involve proven treatment approaches (MacKenzie 1997). If DRCs (and other intermediate sanctions) embrace the principles of treatment and control of offenders – instead of strict surveillance and control – they could be an effective alternative to imprisonment.

Home detention and electronic monitoring

Home detention, also known as home confinement or house arrest, has a long history as a criminal penalty, but as an alternative to imprisonment it took flight in the mid-1980s when it became a front- and back-end attempt to alleviate institutional crowding (Renzema 1992; Tonry 1996). Through recurrent contacts by supervising agents (i.e., probation or parole officers, private agencies, telematic monitoring equipment), the offender’s residence is transformed into a place of confinement that restricts and regulates the offender’s freedom and mobility in the community (MacKenzie 1997). Under home detention offenders are permitted to leave their residence for specific, authorized purposes, such as work, treatment, and community service. Absence from the residence for an unauthorized purpose, or at an unauthorized time, may result in a technical violation of the conditions of supervision, which in turn may result in imprisonment.

While home detention and electronic monitoring are separate sanctions, the two are frequently used in concert, typically with electronic monitoring used to
enforce the conditions of home detention (Gordon 1991). In general, electronic monitoring is used to increase accountability for those being supervised in the community, as it is also commonly used as a component of sanctions or sentences involving intensive supervision. Electronic monitoring provides a technological link between punishment and supervision that makes sanctions such as home detention a practical and affordable option, particularly when the costs of monitoring are deferred to the offender. While home detention with electronic monitoring is generally used for low-risk transgressors, such as those convicted of driving while intoxicated, or property offenses, electronic monitoring has enhanced the ability to supervise more serious offenders in the community. Today, electronic monitoring is used in several points in the criminal justice system: pretrial release and detention, probation, halfway house settings, and prerelease for offenders returning to the community (Bureau of Justice Assistance 1989).

Electronic monitoring can be active or passive. Under active surveillance the supervising agent takes affirmative steps to monitor the offender. A transmitter attached to the offender’s body (usually in the form of an ankle bracelet) sends a signal relayed by a home telephone to the supervising agent during the hours the offender is restricted to the residence. When the supervising agent telephones the offender, the transmitter must be placed in the monitoring equipment to confirm the offender’s presence in the home. Under passive surveillance the offender is fitted with a transmitter that emits a continuous signal, which must be kept within range of a transmitter in the residence, that in turn sends a signal to the supervising agency. If the offender leaves the range of the connection between their anklet and the transmitter, the boundaries of the home itself, the monitoring system is alerted. Hybrid monitoring systems that try to reap the benefits of both systems are also used to monitor offenders (Schmidt 1994). Obviously, both the agency attempting to conduct electronic monitoring and the offender being sanctioned and supervised must have the resources necessary for such supervision. Agencies or jurisdictions must have access to the funds and appropriate technology necessary to electronically monitor offenders, and offenders must be able to provide their own technology and resources as well. No home or residence, no telephone or telephone access in the dwelling, means no option of electronic monitoring.

Widespread use of electronic monitoring as a sanction or enhancement to sanctions like home detention has occurred with little knowledge of its effectiveness on recidivism (Baumer and Mendelsohn 1992; Fabelo 2000). Research on the effects of house arrest with electronic monitoring for those convicted of driving under the influence of drugs or alcohol (DUI) indicates that this type of offender can be supervised in the community with recidivism rates comparable to similar offenders who are imprisoned (Courtright et al. 1997). It has also been suggested that electronic monitoring is a viable reintegrative sanction, but the key is its viability for appropriate offenders (Gainey et al. 2000). By and large, home confinement and electronic monitoring are not considered to be effective programs for reducing recidivism, particularly when used to intensify control and supervision of offenders. The positive effects on recidivism and increased public safety attributed to electronic monitoring may not lie with the sanction itself; rather, low recidivism and violation rates for the offenders placed on electronic monitoring may be more reflective of low-risk offenders typically placed under this form of supervision (MacKenzie 1997).
Day fines

Monetary fines are a common and widely used punishment, often in conjunction with other criminal sanctions (Gordon and Glaser 1991). In general, court-imposed fines are fixed sums defined by statute for a particular offense; the fine is governed by the nature of the crime, not by the offender’s wealth or ability to pay (Gowdy 1993). Fines or financial penalties in criminal matters can themselves be punishment (Morris and Tonry 1990). As an intermediate sanction they can be self-sustaining and generate revenue (Hillsman and Greene 1992), they can serve as a means of reconciliation between offenders and their victims (Gilbert 2000), and they can be imposed without diminishing the offender’s ties to the community. It appears, however, that the perceived lack of teeth attributed to the use of fines alone – in addition to potential inequities of such sanctions against the poor – dissuades policy makers and administrators from widespread implementation of day fines as an alternative to imprisonment (Tonry 1999).

Day fines differ from fixed-sum fining by approaching the issue of financial punishment in an individualized fashion. Under the day-fine approach, courts determine the amount of punishment based on the seriousness of the offense. This initial decision-making process is separated from considerations of what the offender can actually pay (McDonald et al. 1995). This amount is then translated into “punishment units,” which are then put into monetary units based on the offender’s daily income (Winterfield and Hillsman 1993). Typically, unit scales are developed by a planning committee consisting of judges, prosecutors, and defense counselors from the jurisdiction. These court professionals are familiar with local court sentencing practices (Winterfield and Hillsman 1993). For example, under the Staten Island (New York) Day-Fine Project punishment units range from 5 for minor offenses to 120 units for serious misdemeanors. The amount of the fine is determined by multiplying the number of punishment units by the offender’s daily earnings, which is adjusted downward depending on family support responsibilities and personal needs (Gowdy 1993).

Day fines are infrequently used in the United States. This limits the empirical research on the viability of day fines as a supervision and crime prevention sanction. Existing research suggests that day fines (in conjunction with probation or other sanctions) can reduce recidivism relative to the number of technical violations and rearrests (Gordon and Glaser 1991; Turner and Petersilia 1996). Furthermore, day fines can be collected as successfully as regular fines, and the introduction of day-fine systems can occur without affecting offenses that typically went unfined, i.e., day fines do not automatically result in net-widening (Gowdy 1993).

Community service orders (CSOs)

Offenders sentenced to community service orders (CSOs) complete a pre-set number of hours of service to a public or charitable organization or agency. CSOs can involve anything from manual labor to a service that taps the personal skills of the offender. For example, an offender could be required to pick up trash in a public area, or they could be ordered to provide their technical expertise to programs for the disadvantaged. It is not uncommon for the community service...
to be explicitly tied to the offender’s crime. Offenders convicted of driving under the influence of alcohol or drugs have received CSOs that put them in hospital emergency rooms or other facilities treating the seriously injured. Here the offender gains insight into the potential damage of his or her offense.

The use of community service as a sanction in the United States can be traced to several judges in Alameda County (California) Courts. In the mid-1960s, Alameda’s judges began using CSOs to sanction poor people who committed minor crimes; the judges began sentencing poor women convicted of traffic violations to unpaid work at charities and public agencies in lieu of fines (which they could not pay) or imprisonment (which would remove them from their children and families) (McDonald 1992). For crimes not serious enough to warrant imprisonment, orders of community service are more appropriate than jail (von Hirsch et al. 1989).

Community service orders can serve both utilitarian and retributive goals of sentencing, be scaled to the seriousness of an offender’s conduct, and be tailored to facilitate rehabilitative and reparative objectives (Morris and Tonry 1990; von Hirsch 1992; Bazemore and Maloney 1994; Tonry 1999). Furthermore, CSOs hold the potential to alleviate jail and prison crowding, be a cost-effective form of community supervision, provide labor and services for public and charitable agencies, and enhance the social consciousness of offenders and the public (McDonald 1992).

Unfortunately, community service is underused as an intermediate sanction, and, in general, when it is used it is often unwisely implemented (Tonry 1996). Only 6 percent of felons sentenced in state courts in 1996 were ordered to complete some form of community service (Brown et al. 1999). CSOs are often joined with other intermediate sanctions with no clarity as to their goal. This has led to the criticism that they appear to be imposed simply because they can be.

Conflicting, unclear, or undefined purposes of sanctions may occur when intermediate sanctions are “stacked,” such as simultaneously imposing electronically monitored home detention and community service (Parent et al. 1997). When the purpose of community service orders are not clear, it potentially undermines the CSO and other components of the offender’s sentence in the eyes of correctional administrators and the public (Smith 1999).

As they have been implemented to date, community service orders have not been shown to have any significant deterrent or rehabilitative effect on offenders (Parent et al. 1997). The most comprehensive examination of community service as a sanction in the United States was conducted by the Vera Institute of Justice in four of the five boroughs of New York City (McDonald 1986). Criminal court judges in the Bronx, Brooklyn, Manhattan, and Queens were provided the option of CSOs instead of 90-day or shorter jail terms for chronic property offenders. The project was designed to provide an alternative to a jail sentence and as a means to punish offenders who would otherwise escape supervision and punishment due to the pettiness of their offense. A sample group of those given CSOs and a sample of similar offenders given short jail sentences were compared after a six-month follow-up period. The proportion of rearrests (39–51 percent) was identical for both groups, which indicates that under this program community service orders did not rehabilitate offenders or deter them from future crimes more effectively than a short jail term (McDonald 1992). However,
the return on punishment may have been greater for the CSO group, as instead of consuming tax dollars while jailed, they were contributing tax dollars to the community.

Client-Specific Planning

As intermediate sanctions became mainstays in the array of criminal sanctions, one of the most important aspects of John Augustus’s work had almost fallen by the wayside—offender-specific dispositions that strive to rehabilitate, not just supervise. In the late 1970s and early 1980s, it was again outsiders who stood before a court asking for an alternative to common sentencing and correctional practices. While a handful of private practitioners and a few public defender offices were independently developing individualized sentencing recommendations to criminal courts, a small nonprofit organization, the National Center on Institutions and Alternatives (NCIA), successfully popularized the concept with the label “Client-Specific Planning” (Klein 1997: 35–6).

Client-specific planning (CSP) is not a criminal justice sanction. It is a methodology or approach to developing a set of sanctions and conditions imposed by the court. CSP, sometimes called defense-based sentencing, provides judges with a sentencing plan tailored specifically to the individual offender. The plan includes an extensive family, education, employment, and financial history. This is accompanied by an assessment of the client’s ability to meet the demands of a community-based set of sanctions. Sentencing specialists use this information and analysis to recommend an alternative sentence that may include an array of the intermediate sanctions discussed previously and community services, including drug and alcohol treatment, psychological counseling, employment training, and restitution or victim–offender reconciliation where appropriate. The CSP approach calls for meaningful sanctions and punishments combined with treatment and constructive conditions.

Identification of the community resources necessary to enforce the proposed sentence and to change offenders’ behavior is the linchpin of such plans. These may include employment, education, various mental health treatments, accountability circles (composed of community members who monitor the offender), and other supports. CSP services bring to the attention of the courts programs and services that it may not have been aware of or may not have had a relationship with. In this way CSP promotes both alternatives to prison and the reintegration of offenders in the community.

Client-specific planning has grown beyond a movement advocated by a few to a practice utilized by many. Today there are at least 200 CSP programs in 37 states, handling 22,000 cases per year (Sentencing Project 1995). The offenses for which the CSP approach has been successfully employed “run the gamut from homicide to housing code violations” (Klein 1997) with more than 70 percent of the plans presented to the courts accepted by judges in full or in part (Yeager 1992). Many public defender offices now have CSP units or sentencing specialists on their staff. The National Association of Sentencing Advocates, a professional association established by advocates and practitioners, provides training and sets standards for the profession.
However, as client-specific planning becomes absorbed into the corrections bureaucracy, there is concern that the proliferation of the CSP approach will result in unintended, negative consequences for offenders. Indeed, Herbert Hoeltzer, Director and co-founder of the NCIA, expresses concern about a state agency’s ability to conduct client-specific planning and advocacy:

We’ve trained a number of probation offices across the country in CSP. We find that existing bureaucracies often have little motivation, imagination or incentive to do individualized sentencing plans. In those few jurisdictions where we see good work, it results because the agencies are quasi-independent. They are funded by the state but run independently of existing probation or public defender offices and they have good leadership whose number one priority is advocacy for the client. (personal interview)

**Net-Widening and “Alternative” Paths to Prison**

Our critical summary of intermediate sanctions should in no way be interpreted as support for the “nothing works, so lock ’em up and throw away the key” approach to corrections. Rather, the intent of our summary is to illustrate how institutionalized alternatives to incarceration in the United States provide more intensive, offender-specific supervision services than they do offender-specific treatment. Rutherford (1993) characterizes this model as “attack” probation where the goal is to “Trail ’em, Surveil ’em, Nail ’em, and Jail ’em.” Miller (1996), whose “Augustus Institute” works with serious offenders in the community, called this sea change in image and operation “the demise of probation.” These critics note that social problems such as drug abuse and mental illness have increasingly become issues dealt with by the police and the courts. This, they argue, results in an increase in the number of citizens capable of being placed under correctional control in the community – a net-widening effect which not only increases the number of people in community corrections but ultimately in prisons and jails.

Another pitfall lies in the revolving door between community-based sanctions and prison. Last year 600,000 prisoners left correctional institutions and returned to the community. Simultaneously, slightly more were admitted to prison. One-half of those entering prison come from probation and another one-third from parole. Of the 2 million people discharged from the ranks of probation, 300,000 (15 percent) were sent to prison; 42 percent of those discharged from parole were returned to prison, nearly 193,000. Yet only 20 percent of probationers and 26 percent of parolees sent to prison are convicted of a new sentence (United States Department of Justice 2001), leaving the majority returning to prison for technical violations of their community-based sanction.

It is becoming increasingly clear that intermediate sanctions that do not address the individual needs and risks of an offender through effective principles of treatment and offender management do not significantly deter future offending (MacKenzie 1997). They are, in effect, “setups” for failure as revocations of probation, intermediate sanctions, or other alternatives for non-criminal violations make it easier to imprison offenders alleged to be incorrigible or “untreatable.” The resulting contradiction is that programs designed to be
“alternatives to incarceration” and alleviate prison crowding lead nearly half a million people into American prisons each year.

**CONCLUSION – THE AUGUSTUS CONUNDRUM**

In his time, John Augustus’s methods for keeping offenders out of prison were considered radical, even dangerous to public safety. In spite of the opposition, probation became standard practice in courts and corrections. Augustus’s work eventually set the foundation from which other alternatives to incarceration were developed.

Alternatives to incarceration, particularly intermediate sanctions, were designed to alleviate America’s reliance on incarceration while providing more humane and effective treatment of offenders. There exists for each of these goals a mixed bag of interrelated successes and failures. Intensive treatment aimed at rehabilitation largely gave way to intensive supervision and control. The use of alternatives can facilitate appropriate offender-based treatment yet can also widen the net of correctional control. Those supervised in the community today are likely to be housed in prison tomorrow. In sum, when punitive sanctions do not embrace the principles of effective correctional intervention and individualized treatment, criminal behavior is not deterred and the alternative to prison becomes a tool for the very prison expansion it was designed to alleviate.

**Notes**

1 Probation is a sentence served in the community, often in lieu of a prison term, contingent on compliance with court-ordered conditions. Parole is the release of a prisoner into the community during the last part of a prison sentence, also contingent on compliance with the terms of supervision.

2 Technical violations involve a failure to comply with the conditions of probation or parole that may result in a commitment or return to prison. Technical violations include: failure to report to the probation officer, failure to pay court costs or supervision fees, positive urinalysis for alcohol or drugs, changing residence/leaving the state without permission, failure to maintain employment, and other non-criminal acts.

3 A detailed discussion of the principles of effective correctional intervention is beyond the scope of this chapter. The knowledge-base on effective (and ineffective) methods of changing behavior is ever growing. For those interested in a comprehensive discussion and review of rehabilitation, the principles of effective correctional intervention and their use in community-based corrections see Cullen and Gendreau 2000; also see MacKenzie 1997.

**References**


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