

# Criminal Justice *in* America

EIGHTH EDITION



GEORGE F. COLE

CHRISTOPHER E. SMITH

CHRISTINA DeJONG

# 12

## Probation and Intermediate Sanctions

# LEARNING OBJECTIVES

- LO1 - Name the philosophical assumptions that underlie community corrections.
- LO2 - Describe how probation evolved and how probation sentences are implemented today.
- LO3 - Describe the intermediate sanctions, and give examples of how they are administered.
- LO4 - Identify the key issues faced by community corrections at the beginning of the twenty-first century.

# CHRIS BROWN PART 2

- In April 2014 R&B singer Chris Brown was placed in jail for violating conditions of probation. During his sentence of 5 years of probation, after his 2009 assault on his girlfriend Phianna,
- he repeatedly ended up in court by being arrested in 2013 for assault, breaking the windows of his mother's car with a rock and being kicked out of rehab in 2014. In 2013, Lindsay Lohan was briefly jailed for violating conditions of probation.
- If it were not for media publicity of high profile probationers, would you notice community corrections?

# COMMUNITY CORRECTIONS ASSUMPTIONS

- Community corrections seeks to keep offenders in the community by building ties to family, employment, and other normal sources of stability and success
  - Community corrections is based on the goal of finding the “least restrictive alternative”
  - Surveys have found the public supports community-based punishments for some types of offenders

# ARGUMENTS IN FAVOR OF COMMUNITY CORRECTIONS

- Past record and current offense not serious enough to warrant incarceration
- Community supervision is cheaper than incarceration
- Rates of recidivism same in prison or community correction
- Ex-inmates need support of community to re-establish their lives

# PROBATION: CORRECTION WITHOUT INCARCERATION

- Probation

- The conditional release of the offender into the community, under the supervision of correctional officials
  - Although probationers live at home and work at regular jobs, they must report regularly to their probation officers
  - They must also abide by specific conditions, such as submitting to drug tests, obeying curfews, and staying away from certain people or parts of town

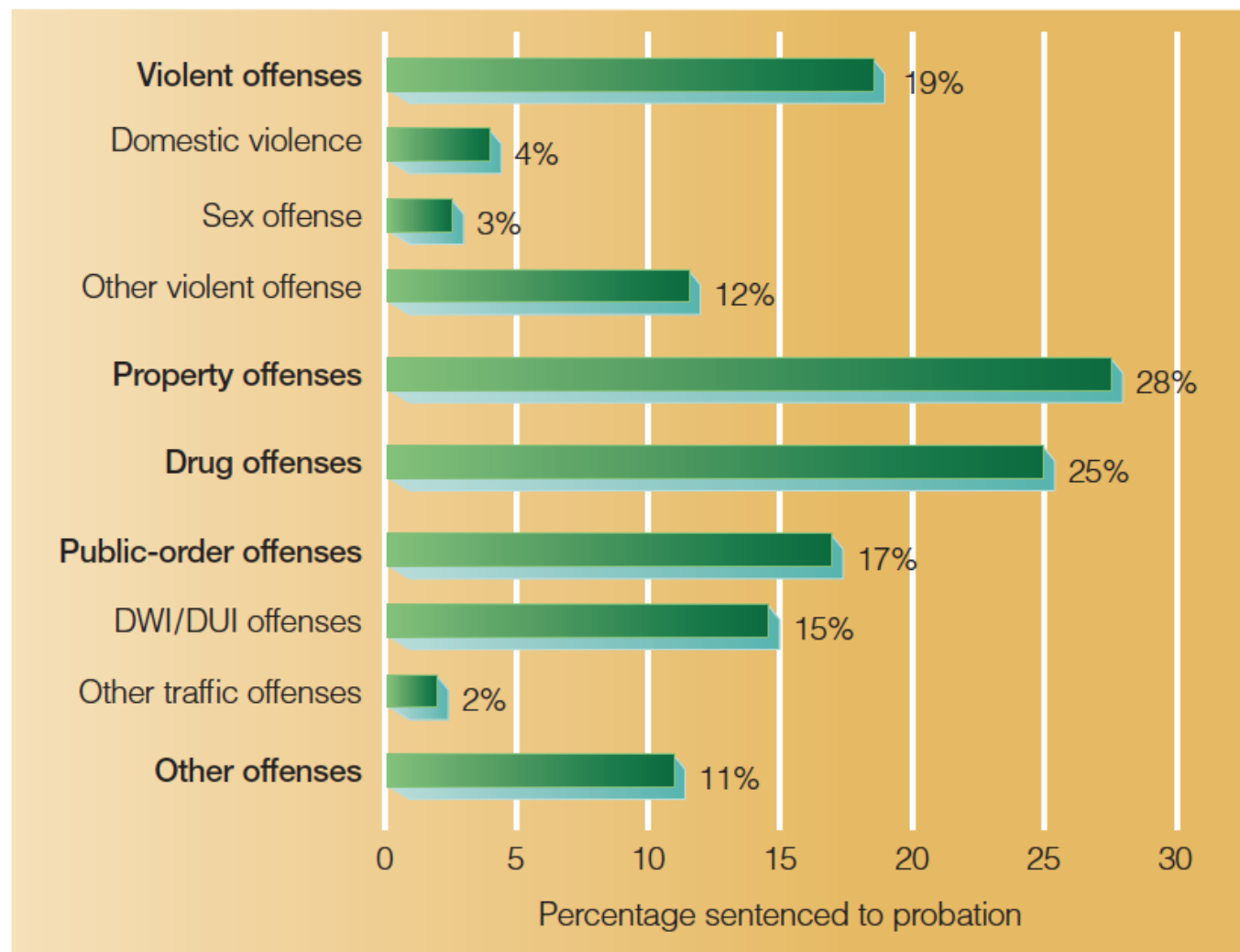
- Although probation is used mainly for lesser offenses, states are increasingly using probation for more serious felonies

# PROBATION: CORRECTION WITHOUT INCARCERATION

**FIGURE 12.2**

**Most Serious Offenses Committed by Offenders Sentenced to Probation** Most probationers are serving their sentence because they committed property or drug offenses, but almost 20 percent of probationers have been convicted of violent offenses. Sex offenders comprise only a small portion of people sentenced to probation.

Source: L. M. Maruschak and T. P. Bonczar, "Probation and Parole in the United States, 2012," *Bureau of Justice Statistics Bulletin*, December 2013 NCJ 243826.



# PROBATION: CORRECTION WITHOUT INCARCERATION

- Probation can be combined with other sanctions, such as fines, restitution, and community service
  - Fulfillment of these other sanctions may, in effect, become a condition for successful completion of probation
    - The sentencing court retains authority over the probationer
    - The judge can order the entire sentence to be served in prison



# PROBATION: GROWTH

- The number of probationers now under supervision is at a record high and is still rising
  - Today more than 4 million offenders are on probation
- Probation budgets in many states have been cut and caseloads increased as lawmakers divert greater resources to prisons

# PROBATION: CHALLENGES

- Although probation offers many benefits over incarceration, the public often sees it as a “slap on the wrist” for offenders
  - With caseloads in some urban areas reaching 300 offenders per officer, probation officers often cannot provide the necessary level of supervision.

# PROBATION: ORIGINS AND EVOLUTIONS

- Probation first developed in the United States in 1841
  - John Augustus persuaded a judge in the Boston Police Court to give him custody of a convicted offender and helped the man appear rehabilitated by the time of sentencing
- Massachusetts developed the first statewide probation system in 1880.
- By 1920, 21 other states had followed suit
- The federal courts were authorized to hire probation officers in 1925
- By the beginning of World War II, 44 states had probation systems

# PROBATION: ORGANIZATION

- Supervision is mixed between probation officers and judges
- Some states centralize power others leave it up to the counties and local judges
- States set standards, provide financial support, and training courses
- Direct access to support is needed for probation officers to do their job

# PROBATION: SERVICES

- Probation officers work both as police officers and social workers
  - Major issues involve excessive caseloads
    - Recommended levels are between 35 and 50 currently officers have caseloads that exceed 300
  - Officers must prioritize cases and focus on those at greatest risk
  - Because of budget cuts, many cities are utilizing volunteers to assist in probation functions

# COMMUNITY JUSTICE

- A model of justice that emphasizes reparation to the victim and the community, a problem-solving perspective and citizen involvement in crime prevention.
  - Many see probation as leading the way in this more flexible and responsive form of local justice initiatives

# PROBATION: SERVICES

- How difficult is it to monitor the behavior of offenders in the community?



# REVOCAION AND TERMINATION OF PROBATION

- Probation ends in one of two ways:
  - Person successfully completes the period of probation
  - Probationary status is revoked because of misbehavior, usually through technical violation (failure to abide by the rules and conditions of probation specified by the judge) or a new arrest



# REVOCAION AND TERMINATION OF PROBATION

**TABLE 12.1 Probation Revocation Hearings: Justifications and Outcomes**

This is a snapshot of the reasons for outstate New York probation officers' recommendations for revocation and the outcomes when probationers were resentedenced as a result of revocation.\*

| Violation Reasons                     |      |
|---------------------------------------|------|
| Technical violations                  | 54%  |
| Arrest                                | 23   |
| New conviction                        | 13   |
| Abscond (go missing)                  | 11   |
| Total†                                | 100% |
| Resentence after Probation Revocation |      |
| Local jail                            | 74%  |
| State prison                          | 15   |
| Probation                             | 4    |
| Intermittent imprisonment             | 4    |
| Unconditional discharge               | 2    |
| Fine                                  | 1    |
| Total                                 | 100% |

*Note:* Two additional offenders were sent to juvenile detention facilities.

\*The data present reasons and outcomes for the 57 counties outside New York City. New York City's probation population is much more heavily composed of convicted felons. The outstate counties' mix of misdemeanants and felons on probation may be more similar to the probation populations throughout the country.

†Total does not equal 100% due to rounding.

*Source:* *New York State Probation Population: 2007 Profile*, Albany: New York State Division of Criminal Justice Services, June 2008.

# REVOCAION AND TERMINATION OF PROBATION

- Once officer makes court aware of a violation, probationer may be arrested and summoned for revocation hearing.
  - Supreme Court ruled that before probation can be revoked, offender is entitled to a preliminary (to determine probable cause) and final hearing where the revocation decision is made), and right to counsel in some cases

# REVOCACTION AND TERMINATION OF PROBATION

- Do probation officers need the same training as police officers, or should they receive a different kind of training in order to do their jobs effectively?



AP Images/Damian Dovarganes

# ASSESSING PROBATION

- *In order to be a viable alternative to incarceration, probation services need:*
  - Resources to supervise and assist their clients
  - Resources to meet increasing demand for electronic monitoring and risk management systems which provide different levels of supervision
  - To utilize evidence-based practices in order to enhance effectiveness

# QUESTIONS FOR THOUGHT

- Why would a probation officer decline to seek revocation for every technical violation?
- Does the criminal justice system benefit from such decisions?

# INTERMEDIATE SANCTIONS

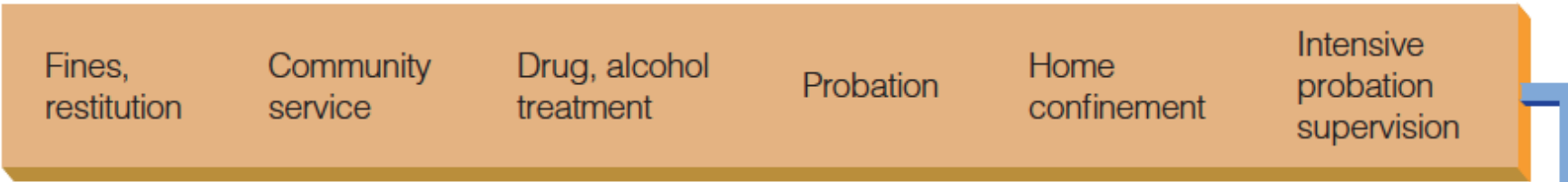
- Dissatisfaction with the traditional means of probation supervision, coupled with the crowding and high cost of prisons, has resulted in the development of intermediate sanctions
  - More restricting than simple probation and constitute a greater degree of actual punishment

# INTERMEDIATE SANCTIONS

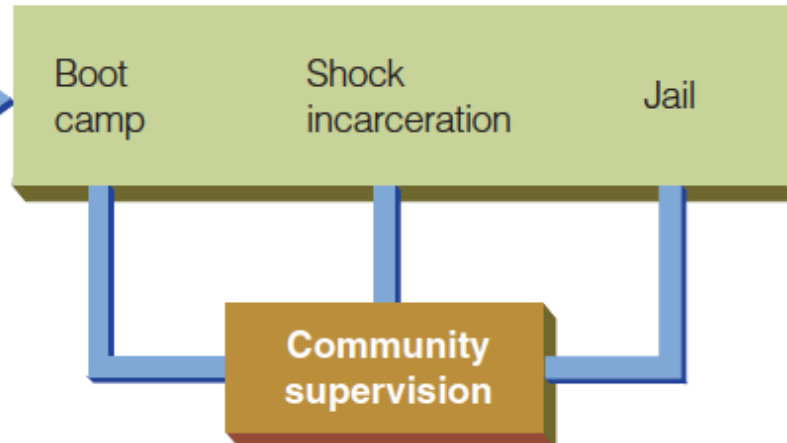
- Intermediate sanctions may be viewed as a continuum – a range of punishments that vary in levels of intrusiveness and control
  - Judges may use a range of intermediate sanctions, from those imposing a low level of control to those imposing a high level

# INTERMEDIATE SANCTIONS

## LOW CONTROL



## HIGH CONTROL



**FIGURE 12.3**

**Continuum of Intermediate Sanctions** Judges may use a range of intermediate sanctions, from those imposing a low level of control to those imposing a high level.



# INTERMEDIATE SANCTIONS

- Those administered primarily by the judiciary:
  - Fines
  - Restitution
  - Forfeiture
- Those administered primarily in the community with a supervision component:
  - Home confinement
  - Community service
  - Day reporting centers
  - Intensive probation supervision
- Those administered inside institutions and followed by community supervision

# TYPES OF INTERMEDIATE SANCTIONS

- **Fines**

- A sum of money to be paid to the state by a convicted person as punishment for an offense

- **Restitution**

- Repayment in the form of money or service by an offender to a victim who has suffered some loss from the offense

- **Forfeiture**

- Government seizure of property and other assets derived from or used in criminal activity

# TYPES OF INTERMEDIATE SANCTIONS

- Should law enforcement agencies be permitted to keep or sell the property that they seize from criminal offenders?



AP Images/Ric Francis

# HOME CONFINEMENT

- A sentence requiring offenders to remain at home during specific periods
  - Offenders under home confinement (“house arrest”) may face other restrictions:
    - Drug checks
    - Curfews
    - Etc.
  - Some offenders are allowed to go to a place of employment, education, or treatment during the day but must return to their homes by a specified hour
- Home confinement offers a great deal of flexibility
- It can be used as a sole sanction or in combination with other penalties.

# COMMUNITY SERVICE

- Sentence requiring the offender to perform a certain amount of unpaid labor in the community.
  - Assisting in social-service agencies
  - Cleaning parks and roadsides
  - Helping the poor

# COMMUNITY SERVICE

- What creative and effective ways can you think of to expand the use of community service sanctions?



# DAY REPORTING CENTERS

- Community correctional center where an offender reports each day to comply with elements of a sentence
  - Participants are screened for acceptance, so usually only for low-risk cases
  - Centers face opposition from citizens regarding placement in their neighborhoods

# INTENSIVE SUPERVISION PROBATION

- Probation granted under conditions of strict reporting to a probation officer with a limited caseload
  - A means of dealing with offenders who need greater restrictions than traditional community-based programs can provide



# BOOT CAMPS

- Among the most publicized intermediate sanctions
  - Often referred to as “shock incarceration”
    - A short-term institutional sentence (usually 30-to-90 days) physical regimen designed to develop discipline and respect for authority
- By 2000, however, about one-third of the camps had closed, and the decline in boot camp operations continues

# BOOT CAMPS

- What are the potential shortcomings of using boot camps as punishment?



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# IMPLEMENTING INTERMEDIATE SANCTIONS

- Which agencies should implement the sanctions?
- Which offenders should be admitted to these programs?
- Will they result in net widening?
  - Process in which new sentencing options increase rather than reduce control over offender's lives

# NET WIDENING

- Critics of intermediate sanctions argue they have created to following:
  - Wider nets
    - Reforms increase the proportion of individuals in society whose behavior is regulated or controlled by the state.
  - Stronger nets
    - By intensifying the state's intervention powers, reforms augment the state's capacity to control individuals
  - Different nets
    - Reforms transfer jurisdictional authority from one agency or control system to another

# FUTURE OF COMMUNITY CORRECTIONS

- In 1995, 3.7 million Americans were under community supervision
- By 2010, this figure had grown to 4.8 million
  - Community corrections suffers from the image of being “soft on crime”
  - Offenders today require closer supervision
  - Burdened by even greater caseload pressures than in the past