

# PERCEPTIONS OF PUNISHMENT: INMATES AND STAFF RANK THE SEVERITY OF PRISON VERSUS INTERMEDIATE SANCTIONS

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*Proponents of the newer intermediate sanctions argue that there are "equivalencies" of punishment between community-based and prison sentences and that, at some level of intensity, community-based programs have roughly the same punitive "bite." There is little research, however, on the relative severity of intensive supervision in comparison to other sanctions. This study was designed to examine how offenders and staff in Minnesota rank the severity of various criminal sanctions and which particular sanctions they judge equivalent in punitiveness. In addition, we explored how both groups rank the difficulty of commonly imposed probation conditions and which offender background characteristics are associated with perceptions of sanction severity. Our results suggest that there are intermediate sanctions that equate, in terms of punitiveness, with prison. For example, inmates viewed 1 year in prison as "equivalent" in severity to 3 years of intensive probation supervision or 1 year in jail, and they viewed 6 months in jail as equivalent to 1 year of intensive supervision. Although inmates and staff ranked most sanctions similarly, the staff ratings were higher for 3 and 6 months in jail and lower for 1 and 5 years probation. The two groups also differed on the difficulty of complying with individual probation conditions: Staff judged most probation conditions as harder for offenders to comply with than did inmates. Our results provide empirical evidence to support what many have suggested: It is no longer necessary to equate criminal punishment solely with prison. At some level of intensity and length, intensive probation is equally severe as prison and may actually be the more dreaded penalty. The results should give policymakers and justice officials pause, particularly those who suggest they are imprisoning such a large number of offenders—not to use prisons' ability to incapacitate and rehabilitate—but rather to get "tough on crime."*

The explosive rise in crime, especially violent crime, over the past two decades confronts the criminal justice system with a trade-off between unpalatable choices: build more prisons, send an increasing number of danger-

ous felons to existing ones, or release offenders to communities in which probation and parole officers, already staggering under high caseloads, can provide only token supervision.

With less than enthusiastic public support to build additional prisons, with a continuing public demand to punish criminal offenders severely, and with the unsuitability of probation as a felony sentence, policymakers find themselves facing a serious dilemma. These realities are encouraging states to consider alternative sanctions that punish but do not involve incarceration. These strategies require finer distinctions between criminal offenders and create, *de facto*, a range of sanctions that reflects the range of criminality.

Policymakers and managers across the country are experimenting with "intermediate," or "middle-range," sanctions that are tougher than traditional probation but less stringent—and expensive—than imprisonment. Intermediate sanctions offer an alternative to the "either/or" sentencing policy found in many states, that is, either prison or probation. They are predicated on the assumption that the two extremes of punishment—prison and probation—are both used excessively, with a near vacuum of useful punishments in between.

In 1990, authors Morris and Tonry argued that a more comprehensive sentencing strategy that relied on a range of intermediate punishments—including fines, community service, house arrest, intensive probation, and electronic monitoring—would meet the needs of the penal system, convicted offenders, and the community better than the current polarized choice. They urged states to develop new sentencing schemes in which all available punishments were calibrated in relationship to one another and in which sentencing could be more easily adjusted to suit the individual offender's conviction crime, prior record, and threat to the community. The central thesis of Morris and Tonry's proposal is that there are "equivalencies" of punishment between community-based and prison sentences and that, at some level of intensity, community-based punishments are as severe as prison terms (*i.e.*, have roughly the same punitive "bite"). They encouraged states and the U.S. Sentencing Commission to identify these roughly equivalent punishments (or "exchange rates") and to allow judges to choose among sentences of punitive equivalence. They predicted that in many instances judges would choose to substitute restrictive, intermediate punishments in lieu of a prison term.

Morris and Tonry's proposal was met with enthusiasm by a number of states and the U.S. Sentencing Commission, at least in principle. Developing

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and using a full continuum of criminal sanctions was seen as a way of reducing the overreliance on prisons and at the same time of satisfying public demands that offenders be treated in a manner that neither trivialized their crimes nor jeopardized public safety. Many states had already begun implementing various intermediate sanctions; thus the notion of integrating such programs into the states' more broad-based sentencing structure (particularly in states already using sentencing guidelines) seemed a logical next step.

### **DEVELOPING EQUIVALENCIES OF SANCTIONS**

To fulfill the goals of retribution and deterrence, sanctions must be punitive. Toward these ends, penal codes reflect a hierarchy of punishments, and the most serious punishments are meted out to those with the most serious crimes and prior criminal records. It is presumed that prison is the most serious punishment (except for capital punishment) and that it is reserved for those who commit the most serious crimes. Creating a new hierarchy of penal sanctions means determining the relative severity of various sanctions.

Developing individual intermediate sanction programs has proven much easier than developing the comprehensive sentencing system that Morris and Tonry (1990) envisioned. A major stumbling block has been reaching consensus on the relative severity of different community-based punishment (e.g., house arrest vs. community service) and, more important, on which intermediate sanction programs, in what dosage, can be substituted for a prison term. For example, is 2 years of intensive probation—with mandatory drug testing and community service—equivalent in terms of punitiveness to 1 year in prison? Can house arrest—with 24-hour electronic monitoring—be substituted for a jail term? If yes, what is the substitution formula (e.g., 3 days of house arrest for 1 day of jail)? Is time spent in jail equivalent to time spent in prison? What monetary fine, if any, could be substituted for what period of confinement? Should participating in an inpatient drug or alcohol treatment program substitute for a period of jail or prison? And so on.

As attempts to scale punishment severity have expanded, some have begun to question the utility of the exercise itself. Harland (1993) has written that such attempts are too narrowly focused to be of much practical use to sentencing authorities, who must consider not only the retributive punitiveness of the sentence but also its ability to meet the other major goals of sentencing (i.e., rehabilitation, deterrence, and incapacitation). Acknowledging the difficulty of incorporating these broader notions in objectively based sentencing schemes, Harland suggested that decision makers might

call instead for an "ordering of sanctions that allows ready comparison of the different options, not only in terms of how much pain and suffering each presents, but also on the basis of their perceived or demonstrated value as techniques for controlling the rate of crime (value as a general deterrent measure) or of recidivism (value as a rehabilitative, incapacitative, or specific deterrent measure)" (Harland, 1993, p. 37).

A number of states have been grappling with these questions, and some equivalency formulas have been proposed. Pennsylvania has proposed revising its sentencing guidelines grid from the traditional in/out (i.e., prison vs. probation) model to one that incorporates four levels of punishment. The middle two levels allow the judge to impose either a "restrictive intermediate punishment" or a prison term. Restrictive intermediate punishments include house arrest with electronic monitoring, inpatient treatment, day reporting centers, and boot camps. The substitution formula is a 1-day for 1-day trade-off between intermediate punishments and jail or prison (Pennsylvania Commission on Sentencing, 1993). Oregon and Louisiana have proposed assigning "custody units" to all nonstate prison sentences. Courts can then select a number of sentencing options to fill the custody units (Ulmer, 1993a, 1993b). In Louisiana, for example, the courts can substitute 5 months on either intensive supervision, residential treatment, or house arrest for 1 month in jail. These strategies are seen as broadening the sentencing options for courts and encouraging courts to rely less on incarceration.

Although there is some slight progress, the process of determining equivalencies in punishment has proven extremely difficult. The core of the problem is reaching consensus on the question, What punishes? Because people's values differ, what is felt as extremely punishing (or rewarding) for one individual may be considered insignificant by another. When the choice was simply prison versus standard probation, most everyone could agree that prison was the more severe sanction. But with the emergence of highly restrictive community-based punishments—which often require weekly drug testing, mandatory employment, curfews, and supervision fees—it is no longer obvious.

As Crouch (1993) has noted: "Theoretically, for prison to have the retributive and deterrent effect on offenders that the public desires, a fundamental assumption must be met: that offenders generally share the state's punitiveness in the ranking of criminal sanctions" (p. 68). This is also implied in Gibbs's (1968) statement: "No legal action can deter if it is not perceived as punitive by those who are subject to it, and whether or not sanctions deter depends in part on the extent to which they are perceived as severe" (p. 527).

Most law-abiding citizens probably still believe that, no matter what conditions probation or parole imposes, remaining in the community is

categorically preferable to imprisonment, but recent evidence suggests that offenders might not share this view. Oregon implemented an intensive supervision probation (ISP) program in 1989, and selected nonviolent offenders were given the choice of either serving a prison term or returning to the community to participate in ISP, which incorporated drug testing, mandatory employment, and frequent home visits by the probation officer. During the first year, about a third of the offenders given the option of participating in ISP chose prison instead (Petersilia, 1990). Offenders evidently felt that going to work every day, being drug tested, and having their home privacy invaded were more punishing than serving a stint in state prison. Not only did they perceive the ISP conditions as onerous but many offenders predicted they would not be able to abide by these conditions, and would eventually be revoked to prison to serve out their original sentence. As it turned out, their predictions proved rather accurate: 50% of offenders participating in Oregon's ISP Program were revoked to prison within 1 year (Petersilia & Turner, 1993).

In developing these alternative intermediate sanctions, offenders sentenced to prison should perceive the intermediate sanction as equally punitive and severe as prison. The unanswered question is, Do they? If community-based punishments can be designed so that they are seen as equally punitive by offenders, then perhaps policymakers—who say they are imprisoning such a large number of offenders because of the public's desire to get tough with crime—might be convinced that there are other means besides prison to exact punishment.<sup>1</sup> To develop this new hierarchy of intermediate punishments, then, it is necessary to determine the relative severity of intermediate sanctions in comparison to prison and probation.

### PERCEPTIONS OF THE SEVERITY OF SANCTIONS

Despite the importance of the offenders' perspective, almost no empirical data exists on how they rank the severity of various criminal sanctions, and the few studies that have used offenders were conducted before tougher intermediate sanctions were widespread. There have been only three prior attempts to survey the opinions of criminal offenders regarding the perceived severity of sanctions (Apospori & Alpert, 1993; Crouch, 1993; McClelland & Alpert, 1985), and none of these included the newer intermediate sanctions (e.g., intensive probation). In addition, most prior research on sanction severity has used either paired comparisons or magnitude estimation to measure judgments, and both techniques have methodological or analytical flaws.<sup>2</sup>

McClelland and Alpert (1985) surveyed 152 arrestees in a midsize western city, following the example of Erickson and Gibbs (1979) who used magnitude estimation techniques to survey policemen and adults in households. Respondents were given a list of penalties (randomly ordered), including different levels of fines, probation, jail, and prison, and were instructed to assign a number to each penalty based on the standard of 100 for 1 year in jail. They found that persons who had more experience with the criminal justice system (e.g., more prior convictions) minimized the seriousness of prison in comparison to other punishments. In later research, Apospori and Alpert (1993) suggested that as the threat of the legal sanction became realized, arrestees raised their perceptions of the severity of sanctions. In a survey of 1,027 incoming prisoners at a Texas institution who were asked if they would prefer probation or prison, Crouch (1993) found that the majority of inmates preferred prison to probation, believing probation was stricter. In addition, Crouch found that those who were married preferred probation to prison, whereas minorities and older inmates preferred prison.

Most prior research on sanction severity has used either paired comparisons or magnitude estimation to measure judgments. Paired comparisons are easier for subjects to perform because they rely on comparative judgments, but magnitude estimation has been preferred because the procedure results in a ratio level scale that can be used in more sophisticated analyses.<sup>3</sup> The problem with the magnitude estimation technique is that the validity depends on the adequacy of subjects' mathematical skills.<sup>4</sup> Although used in numerous psychological experiments on a variety of subjects with varying skills, magnitude estimation techniques may produce unreliable or invalid results (Luce, 1959). In fact, research has shown that the use of magnitude estimation techniques among naive or poorly educated subjects is questionable (Jones & Shorter, 1972).

Although these prior studies are important in terms of suggesting methodological approaches and hypotheses, our research attempted to improve on them. Our survey instruments added the newer intermediate sanctions and included both magnitude estimation and rank ordering techniques for scaling the sanctions. Moreover, we have used a new analytical technique with ordered categorical data to model the underlying latent scale of the severity of sanctions and to test for differences between individuals. Because we were asking for offenders' judgments of sanction severity, the simpler technique of rank ordering was likely to give a more accurate model of their rating of various punishments.

Advances in statistical techniques (e.g., ordered categorical data models) allows us to use the simpler judgment task (Agresti, 1990). In addition to increasing the simplicity of the task for inmates, the use of rank ordering and

ordered logistic regression allows greater flexibility in the analysis. The basic model being tested assumes that each individual has an underlying scale of the severity of different sanctions. In prior research, factor analysis was used to test for individual differences in magnitude estimation scores. Although both factor analysis and ordered logistic regression rely on assumptions of the unidimensionality of the underlying factors that identify groups of sanctions, ordered logistic regression does not depend on the use of an interval level of measurement. Thus ordered logistic regression allows us to test more easily and with less rigid assumptions about the data whether various sanctions are indeed equivalent. For these reasons, the rank ordering analysis is preferred, and this article focuses primarily on those results.

## RESEARCH DESIGN

This article presents the results of an exploratory study undertaken in Minnesota and funded by the National Institute of Justice (NIJ). The study was conducted in cooperation with the Minnesota Department of Corrections and the Minnesota Sentencing Guidelines Commission.<sup>5</sup> The choice of Minnesota is important because Minnesota was the first state to implement presumptive sentencing guidelines and because its guidelines structure has served as the model for over a decade in both the United States and abroad (Parent, 1988).

In 1990, the Minnesota legislature asked its Sentencing Guidelines Commission to expand the guidelines to include nonimprisonment as well as imprisonment. The intent was to move beyond the in/out line (prison vs. probation) and create three lines: in (to prison), out (to probation), and intermediate (to intensive community-based sanctions). To assist in the process of deciding which intermediate punishments should substitute for prison, they sought empirical data on how various legal penalties are viewed by offenders. This study was designed to respond to their needs.

The study was designed to develop a methodology for measuring offender perceptions of sanction severity and to use that method on a sample of prisoners and correctional staff, collecting data on the following research questions:

1. How do offenders rank the severity of various criminal sanctions, and which particular sanctions are judged equivalent in punitiveness?
2. What offender background characteristics are associated with variations in the perception of sanction severity (e.g., employment, age, prior criminal record)?

3. How do offenders rank the difficulty of various probation/parole supervision conditions, and how does this affect their ranking of prison versus intermediate sanctions?
4. How do rankings of criminal sanctions differ between offenders and correctional staff?

### SAMPLE SELECTION

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

Although the final sample size of 48 might be considered small, we believe it is adequate for the purposes of the present study, which was primarily explorative in nature. The study had two purposes: first, to develop a ratings task and analytical method for studying this issue, and, second, to answer the four research questions. A small sample size for statistical analysis generally presents two problems—power and generalizability. Usually, there is insufficient power when sample sizes are small to detect significant differences (Cohen, 1988; Lipsey, 1990). For the present study, we used a specific statistical technique (i.e., ordered logistic regression) that increases the power of the statistical test because the response matrix has its own structure. If significant differences are found with this type of analysis, we have enough power to detect these differences. With a larger sample size, we might have been able to detect finer differences between subgroups. The sample allows us to generalize to those inmates in the Minnesota system who would be eligible for ICS, but it does not allow us to generalize to larger populations, such as low-risk incoming inmates in other states. We would encourage other researchers to replicate this type of study with larger samples in other jurisdictions.<sup>6</sup>



## DATA COLLECTION

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

1. *The magnitude estimation task.* Fifteen legal sanctions were selected for the study (see Table 2). Each sanction description was printed separately on a 3 × 5 card and presented one by one to the respondent in a random order. Respondents were instructed to compare each of the sanctions to the standard of 1 year in jail, which was equivalent to 100 points. These results are not presented in this article.
2. *Offender background interview.* Offenders were asked about 25 open-ended questions that requested information on employment, housing arrangements, family relationships, present prison experiences, and perceptions of prison versus community-based sentencing.
3. *The ranking of probation conditions.* Inmates were asked to estimate "the difficulty you would probably experience in trying to meet the (specified) condition." They were asked about 13 commonly imposed conditions and directed to place each "condition card" next to the one of five responses (ranging from not difficult at all to very difficult).
4. *The rank ordering task.* To rank order the sanctions, inmates were given a stack of 4 × 6 cards (randomly ordered). Each card had printed on it 1 of the 15 sanctions (see Table 2). Inmates were instructed to simply place the cards on the table, from left to right, in order from least severe to most severe.

## FINDINGS

### INMATE CHARACTERISTICS

Of the sample of inmates, 50% were White; the majority of non-Whites were African American. The average age at the time of the current offense was 26 years. Inmates tended to be unemployed prior to prison, and about half of them had less than a high school education. Inmates were serving prison terms of 17 months on average, and most had been convicted of property offenses. Inmates averaged 7 prior arrests and two prior felony convictions, and one third of them had previously served time in prison.

The inmates we interviewed were fairly comfortable about being incarcerated in Stillwater and St. Cloud; over 75% felt safe and expected to serve

**TABLE 1: Characteristics of Inmate Sample (N = 48)**

	Percentage	Mean
Demographic/individual		
Non-White	50.0	
Less than high school education	55.3	
Unemployed	52.1	
Employed, low income	22.9	
Single with no children	43.8	
Drug dependent	41.7	
Type of occupation		
Professional	4.3	
Clerical	8.5	
Service	25.5	
Skilled	34.0	
Semi-skilled	17.0	
Unskilled	10.6	
Offense-related		
Age at current offense		26.4
Length of term imposed (months)		17.4
Type of current offense		
Robbery	2.1	
Burglary	27.1	
Theft/forgery	54.2	
Drug sale/possession	6.2	
Other	10.4	
Prior criminal record		
No prior arrests	8.3	
Arrests only	6.2	
Prior probation sentence	6.2	
Prior jail sentence	43.8	
Prior prison sentence	35.4	
No. of prior arrests		7.0
No. of prior felony convictions		2.1
No. of prior probation revokes		0.2
Prison climate		
No. of months expected to serve		8.4
Believe difficult to serve time	50.0	
Feel unsafe in prison	22.9	
Bad interactions in prison	33.3	
Family or friends upset, unsupportive	64.6	

an average of only 8 months. Most of the inmates were in the minimum security wing of the facility and thus probably felt more comfortable than if they had been in a maximum security unit with more violent inmates. Those who expressed fear or feeling unsafe in prison were more likely to be those who had not been previously incarcerated or who had already suffered some sort of incident. In addition, inmates believed they would serve short terms

because they would be eligible for work release within a few months of their admission. Half of the inmates felt it would be difficult to serve their prison time, and one third reported they had some bad encounters with other inmates or guards during the first 45 days in prison. About 65% indicated that their family or friends were upset or unsupportive because they were in prison.

Inmates in our sample appeared to be characteristic of low-risk offenders and, therefore, suitable for intermediate sanctions. Yet the majority of inmates came from a disadvantaged situation and would probably consider it difficult to comply with the conditions of an intermediate sanction program that requires mandatory employment, a drug-free lifestyle, and a stable home residence. Because the majority also felt they had a short time to serve and did not feel unsafe in prison, they may not have viewed prison as a particularly harsh alternative.

#### **INMATE RANKINGS AND EQUIVALENCIES OF THE SEVERITY OF CRIMINAL SANCTIONS**

As noted above, each inmate was asked to rank order the 15 sanctions from least severe to most severe. The means and standard deviations for the rank orders of the 15 sanctions presented in Table 2 suggested that inmate consensus was greatest at the lowest and highest levels—that is, \$100 fine and 5 years prison. The larger values for the standard deviations on other sanctions suggested there was some variation between individuals, particularly on the ratings of a \$5,000 fine, 3 months in jail, and 1 year in prison. Nonetheless, the means and medians provided similar results in the overall rank ordering of the various sanctions. For example, there appeared to be clusters of sanctions: 5 years probation, 3 years intensive probation, and 1 year in jail all had a median rank of 10. To test statistically for significant differences in the rank ordering of various sanctions, further analysis was necessary.

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

$$\text{ranking} = \int (\text{sum}[\beta(i) \times \text{sanction}(i)])$$

The results of this type of analysis are a collection of parameter estimates, or betas, one for each sanction in the simplest case. The estimated coefficients in this model form a latent variable scale yielding an interval valued "score" for the various sanctions. The betas represent ranking of the sanctions and standard errors for the sanction's position on the latent scale. The statistical

**TABLE 2: Inmates' Rank Ordering of Criminal Sanctions**

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

test of the difference between the ranking of the sanction and the ranking of the omitted category is a chi-square test with 1 degree of freedom.

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

To test for equivalencies in the ratings of the sanctions, the ordered logistic regression analysis was repeated, each time omitting a different sanction and performing chi-square tests, comparing sanction to the omitted category. The results of this analysis can be used to devise formulas for the substitution of incarceration for community-based punishments as shown in Table 3.

A number of things are worth noting. First, inmates judged 1 year spent in jail as equivalent to 1 year spent in prison. In fact, in the open-ended interviews, several inmates stated that prison time was easier to do because there were more activities to occupy their time and conditions were generally better. Inmates also ranked 5 years of intensive probation supervision as

TABLE 3: Inmates' Perceived Severity of Criminal Sanctions

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

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

harsher than 1 year in prison, but not as harsh as 3 years in prison. Five years in prison was judged more severe than any other sanction and had no equivalent in terms of the intermediate sanctions measured here. Similarly, a \$100 fine was judged as significantly less severe than any other sanction measured here, having no other statistical equivalent.

In general, we found consensus among inmates on the ratings of sanction severity, yet we wondered if there might be individual differences such as those found in prior research. Unfortunately, our sample was so small and homogeneous that we found little variation between individuals in their ratings of the sanctions. We did find, however, that those who were married and/or had children tended to rank prison and jail confinement as more severe than those who were single; inmates who were single tended to rank financial penalties (e.g., fines, restitution) as more severe than inmates who were married. There were no differences in the rankings of sanction severity by race, prior prison experience, employment history, drug dependency, or how safe the inmate felt in prison.

### COMPARING SANCTION SEVERITY RANKINGS BETWEEN INMATES AND CORRECTIONAL STAFF

After completing the analysis of the inmate interviews, we wondered whether correctional staff would have ranked sanctions and probation conditions similarly. Minnesota corrections officials agreed to expand the study by permitting us to administer the two sanction severity tasks and the ranking of probation conditions to a sample of correctional staff. We used a convenience sample of those persons participating in a corrections training conference in April 1993. The sample consisted of 38 persons who work for the Minnesota Department of Corrections (DOC) or private agencies that contract with the DOC and who were familiar with the intensive supervision program in Minnesota. The sample may not be representative of corrections staff in general because the majority of respondents were either agents or supervisors in the ICS program. We purposely chose this sample so that this analysis could be part of our larger study evaluating the effectiveness and costs of the Minnesota ICS program. The results of our analysis, then, may be more directly applicable to Minnesota's sentencing practices and policies, but they do have implications for other state and local jurisdictions.

First, we repeated the same analyses that we had conducted for the inmate sample, examining the means and median rank orders. Next, we performed the ordered logistic regression analyses for the simple model based on data from the correctional staff. The parameter estimates for the model with 1 year intensive supervision as the omitted category are shown in Table 4, ordered from low to high (or least severe to most severe). Similar to the inmate ratings, we found the sanctions were rated with \$100 fine as being the least severe and 5 years prison as the most severe. The results of fitting each regression model comparing the various sanctions using the chi-square tests are shown in Table 4. The sanctions within the boxes were judged by staff as equivalent in terms of severity. For example, 1 year in prison was equated with 1 year in jail, 3 years intensive probation, and 5 years intensive probation. Staff equated 1 year probation to a \$1,000 fine. They also grouped together 3 months and 6 months jail, 3 and 5 years on probation, 1 year on intensive supervision, and a \$5,000 fine.

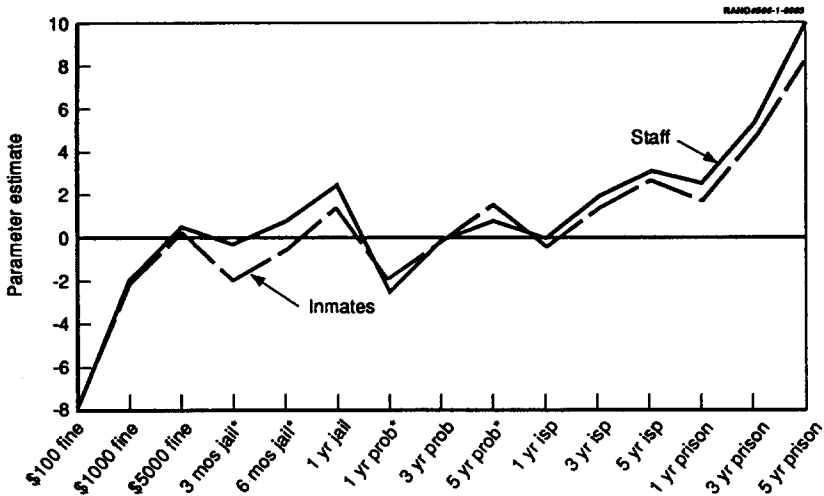
Next, we combined the data from the two samples and applied ordered logistic regression to examine the similarities and differences between inmates and staff. The results shown in Figure 1 are plots of the parameter estimates given by each of the respective groups. There is considerable overlap between the two curves representing the models for each group, but staff generally tended to have higher ratings for most sanctions than did the inmates.

**TABLE 4: Staff Perceived Severity of Criminal Sanctions**

<i>Criminal Sanction</i>	<i>Parameter Estimate</i>	<i>SE</i>	<i>Chi-Square</i>
\$100 fine	-8.70	0.98	78.0
1 year probation	-2.65	0.43	37.6
\$1,000 fine	-2.20	0.43	26.2
3 months jail	-0.36	0.41	0.8
3 years probation	-0.14	0.40	0.1
1 year intensive probation	0.00	0.00	0.0
\$5,000 fine	0.53	0.41	1.7
6 months jail	0.86	0.39	4.9
5 years probation	0.88	0.40	4.9
3 years intensive probation	2.00	0.42	23.1
1 year jail	2.62	0.41	40.2
1 year prison	2.76	0.42	43.3
5 years intensive probation	3.31	0.44	56.5
3 years prison	6.21	0.55	128.1
5 years prison	11.72	1.04	126.1

Statistical tests of the models indicated significant differences between the staff and the inmates. A likelihood ratio chi-square difference between the two models of 40 with 15 degrees of freedom suggested that these groups differed in their ratings of the severity of sanctions. To determine the source of the differences between inmates and staff, each of the parameter estimates was individually tested. We found that inmates and staff had different perceptions of the severity of 1 year and 5 years probation, and 3 and 6 months in jail. For both levels of probation, staff rated the sanction as less severe than did the inmates, whereas for both levels of jail, staff rated the sanction as more severe.

The results of the various ordered logistic regression analyses of inmates and staff ranks in terms of equivalencies of rankings are summarized in Figure 2. At the two ends of the continuum (\$100 fine and 5 years in prison), inmates and staff had similar rankings; however, their perceptions about intermediate sanctions and the equivalencies of intermediate sanctions to incarceration differed. For example, the difference between the rating of inmates and staff of 3 months in jail and 6 months in jail is clearly shown by looking at Groups 2 and 3. In Group 2, both inmates and staff equated 1 year probation and \$1000 fine, but inmates also equated these sanctions with 3 months in jail, whereas staff equated 3 months in jail with the other sanctions



**Figure 1: Corrections Staff Versus Inmates in Perception of Sanction Severity**  
 \*Indicates tests of individual parameter estimates are significantly different,  $p < .05$ , comparing inmates and staff. Model chi-square difference = 40.4,  $df = 15$ .

	Inmates	Staff
<b>Least serious</b>		
Group #1	\$100 fine	\$100 fine
Group #2	\$1000 fine 3 months jail*	\$1000 fine 1 yr probation
Group #3	6 months jail 3 yr probation 1 yr intensive probation \$5000 fine	3 months jail* 6 months jail 3 yr probation 1 yr intensive probation \$5000 fine 5 yr probation*
Group #4	3 yr intensive probation 1 yr jail 5 yr probation* 1 yr prison	3 yr intensive probation 1 yr jail 5 yr intensive probation* 1 yr prison
<b>Most serious</b>		
Group #5	5 yr intensive probation	
Group #6	3 yr prison	3 yr prison
Group #7	5 yr prison	5 yr prison

**Figure 2: Inmate and Staff Ranking of Equivalent Punishments**  
 NOTE: Each group statistically significant from another group. \*Indicates differences in sanctions are included in the groups.



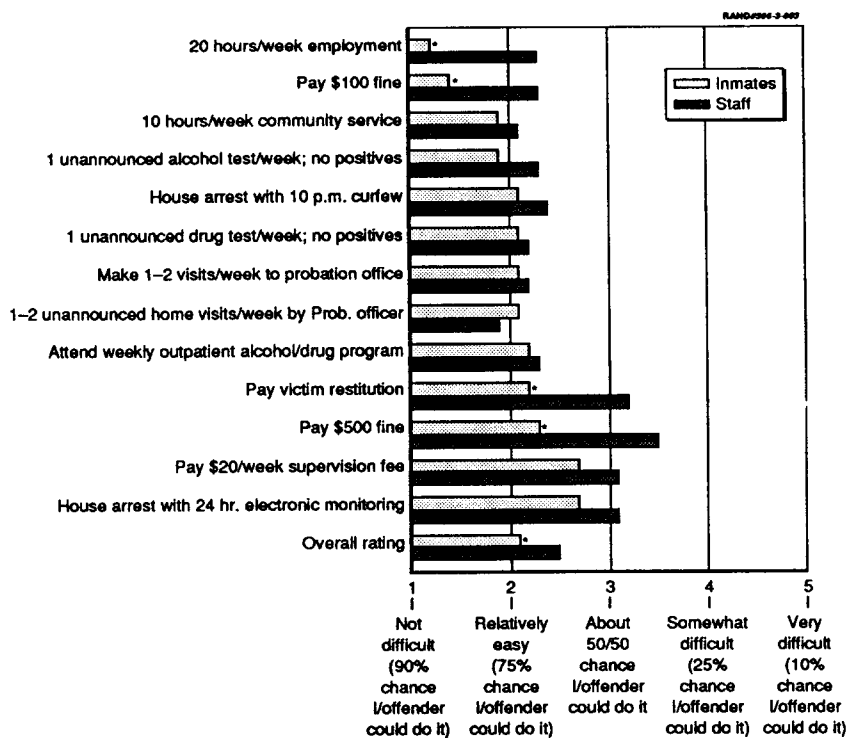
in Group 3. In Group 4, both inmates and staff equated 1 year in jail to 1 year in prison, and staff also equated these sanctions to 3 and 5 years intensive probation, but inmates placed 5 years intensive probation in the next most serious group.

#### COMPARISON OF INMATES AND STAFF ON RATINGS OF SUPERVISION CONDITIONS

We hypothesized that perceptions of sanction severity might be related to the perceived difficulty of offenders' compliance with various probation conditions. In recent years, courts have been increasing the number of conditions offenders must abide by when granted probation (Petersilia & Turner, 1993). It is thought that the imposition of a greater number of more stringent conditions increases the punitiveness of community-based sanctions.<sup>7</sup> Some have argued that the courts are now imposing so many conditions on probationers that few in the general public could successfully comply with them (Clear & Hardyman, 1990).

Figure 3 presents the inmate and staff ratings of the difficulty of various probation conditions, ordered from least difficult on the top to most difficult at the bottom. There was general agreement on most items, although staff rated the conditions as slightly more difficult than inmates in nearly every instance, and the overall rating is significantly higher for staff than for inmates. In general, inmates felt they would have very little difficulty in complying with various restrictions of intensive supervision. The overall rating for the 13 probation conditions was 2.1, which translates into "relatively easy." They judged the easiest conditions to be the payment of a \$100 fine and 10 hours per week of community service. Inmates judged the most difficult conditions to be house arrest with 24-hour electronic monitoring and the payment of a \$20 per week probation/parole supervision fee.

It might seem contrary that inmates who judged certain intermediate sanctions as equivalent to prison in harshness would also have judged the individual conditions making up those sanctions as rather easy to comply with. One year of intensive supervision, for example, was judged equivalent to 6 months in jail, and ISP generally includes unannounced drug tests, mandatory employment, and community service—which were not judged as particularly difficult individually. Information offered by offenders during the interviews suggested that, although each individual condition might be easy to comply with, when conditions are stacked together—particularly over longer time periods—they become much more difficult. House arrest sentences are often for periods of 6 months to 1 year, and intensive probation is usually for 1 to 2 years.



**Figure 3: Perceived Difficulty of Probation Conditions: Inmates Versus Staff**

\*Significant difference,  $p < .05$ , on  $t$  test of means.

The most pronounced differences between inmates and staff were on conditions related to financial payments. Staff believed it was much more difficult for the offender to pay victim restitution, fines, and supervision fees than did the offenders. Staff may also have been more aware of and influenced by their experiences of seeing how few of the offenders actually pay their financial penalties. In fact, staff ranked the financial penalties as the most difficult condition imposed by the courts, surpassing weekly drug testing, house arrest and employment requirements. The biggest mismatch between inmate and staff rankings was on maintaining 20 hours per week employment: Offenders judged it much easier than did staff. Staff reported that it was becoming increasingly difficult to locate jobs for offenders. Because this sample of inmates believed that they could obtain employment relatively easy, the financial penalties were not perceived as difficult to comply with; this may explain the differences in their perceptions of the financial penalties.

## DISCUSSION AND IMPLICATIONS

Our results suggest that there are intermediate sanctions that equate, in terms of punitiveness, with prison. For example, inmates viewed 1 year of intensive supervision as equivalent in terms of severity to 6 months in jail or 3 years probation. Inmates also judged 1 year spent in jail as equally punitive as 1 year spent in prison and 3 years on intensive supervision. There were many similarities, but also differences between inmates and staff in their rankings of sanction severity, although the two groups differed on their perceptions of the difficulty of complying with individual probation conditions: Staff judged most probation conditions as harder to comply with than did offenders. These findings imply that at some level of intensity both staff and inmates judged the newer intermediate sanctions as equally punitive as prison. Thus our results provide empirical evidence to support what many have suggested: It is no longer necessary to equate criminal punishment solely with prison. The balance of sanctions between probation and prison appears to have shifted, and, at some level of intensity and length, intensive probation is the more dreaded penalty.

These findings have a number of important research and policy implications. For one, the clusters of sanctions identified as equivalent in severity should be useful to sentencing commissions attempting to incorporate alternatives into sentencing guidelines, and to devising formulas showing the equivalency of alternative sanctions to imprisonment. Such formulas should consider, among other things, what is perceived of as punishing by those likely to be subjected to the punishment. Table 5 compares the Minnesota inmate rankings, expressed as ratios of months in prison to months in jail or intermediate sanctions, with proposals being considered in Louisiana, Pennsylvania, and the Federal Sentencing Commission. The table shows that the equivalency formulas vary widely in the amount of community-based sanction time that is required to substitute for prison time. Louisiana, for example, requires more than 5 months on ISP to substitute for 1 month of prison, whereas Pennsylvania allows a one-to-one trade-off between the ISP and prison. Minnesota staff and prisoners both judged the ratio of prison to ISP to be 1 to 3.

Of course, equivalency formulas reflect more than notions of punishment severity; they may also incorporate local punishment preferences, resource constraints, and opinions about rehabilitation and incapacitation effects. But how offenders perceive the punitiveness of different legal penalties is important in such deliberations, particularly from a cost-of-sanction standpoint. Policymakers often stack probation conditions and/or make probation terms longer for the purposes of creating a tough, credible punishment. Courts and

TABLE 5: Proposed Ratios of Prison to Intermediate Sanctions

<i>Type of Sanction</i>	<i>Minnesota</i>	<i>Louisiana</i>	<i>Pennsylvania</i>	<i>United States Sentencing Commission</i>
Jail	1:1	1:1	1:1	1:1
Intensive supervision probation	1:3	1:5.3	1:1	1:3
Home confinement	NA	1:5.3	1:1	1:2
Standard probation	1:5	NA	not permitted	not permitted
Community service	NA	1:320 hrs	not permitted	not permitted
Inpatient treatment	NA	1:5.3	1:1	1:1

NOTE: Ratios represent months in prison to months in intermediate sanction.

the public often perceive that adding such court-imposed conditions (e.g., drug testing, curfews) to the sanctions' cost is rather minimal. In truth, each added condition is quite costly, both in terms of monitoring compliance and responding to violations. Generally speaking, the more conditions imposed and monitored, the higher the revocation rates and associated correctional costs (Petersilia & Turner, 1993).

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

The study results also have implications for sentencing and deterrence research. Sentencing studies routinely build mathematical models of punishment that treat anything other than prison as "zero" and that assign positive values only to increments of imprisonment. Similarly, deterrence studies assign numerical ranks reflecting sanction seriousness and then analyze whether there is a relationship between the severity rankings and some posttreatment outcome (e.g., usually recidivism). Deterrence theory hypothesizes that criminality is inversely related to the severity of punishment: the more severe the punishment, the lower the incidence of crime or recidivism.

Both types of studies rely on scales of sanction severity, which our study suggests are in need of refinement. At a minimum, sentencing studies need to recognize different levels of probation supervision (i.e., not code all probation sentences identically) and to not equate probation terms with "zero," which implies no sanction at all. Our study also supports those who suggest that particular punishments do not have the same meaning for all people and that individuals' perceptions of the severity of punishment should be taken into account in deterrence studies (Grasmick & Bryjak, 1980).

Our results also have important implications for sentencing policy more generally, suggesting that we now have the means to move beyond the prison-or-nothing simplicities that have characterized recent punishment debates. Some believe the United States has failed to develop a sufficient range of criminal sanctions because the dialogue has often been cast as punishment or not, with prison being punishment and other sanctions being seen as "letting off" or simply a "slap on the wrist." As such, judges have had no choice other than prison for imposing what the public and the offender regard as tough punishment. Our results show that certain community-based sanctions are not necessarily a mere slap on the wrist but are judged quite punitive in the minds of those likely to be subjected to them. The results should give policymakers and justice officials pause, particularly those who suggest they are imprisoning such a large number of offenders—not to use prisons' ability to incapacitate and rehabilitate—but rather to get "tough on crime" and to show offenders that crime doesn't pay. As Fogel (1975) put it, "one reason for preferring incarceration is simply that we have not found another satisfactory severe punishment" (p. 24). These results show that, in the minds of those who work in the system and those who are subject to it, that is no longer the case.

## NOTES

1. Obviously, prisons serve purposes other than deterrence and retribution. In particular, prisons are thought to incapacitate violent offenders. In that sense, prisons remove from the free community offenders who may recidivate.

2. For example, one problem with magnitude estimation is that the validity depends on the adequacy of subjects' mathematical skill because it requires subjects to rate various stimuli in comparison to the standard numerical value. Although used in numerous psychological experiments on subjects with varying skills, research has shown that the use of magnitude estimation techniques among naive or poorly educated subjects is questionable (Jones & Shorter, 1972).

3. Magnitude estimation techniques were first developed in the field of psychophysical scaling (Stevens, 1956; Thurstone, 1927) and later applied to the measurement of attitudes (Hamblin, 1974; Lodge, 1981).

4. In magnitude estimation, subjects are usually given a standard value and asked to rate various stimuli in comparison to the standard on a ratio level scale. For example, if the stimuli is twice the strength as the standard, the estimated value is twice as large.

5. We are particularly appreciative of Orville Pung, former commissioner of the Department of Corrections (DOC); Jim Bruton, former director of the Office of Adult Release; Debra Daily, director of the Minnesota Sentencing Guidelines Commission; Robert Erickson, warden of Stillwater Correctional Facility; Leroy Siegel, warden of St. Cloud Correctional Facility; Sue Opsahl, former caseworker at Stillwater; and Mike Bissett, caseworker at St. Cloud.

6. In fact, since the completion of this study, the same ratings task has been completed by a sample of Texas inmates, and correctional officials in Pennsylvania and New Jersey are considering replicating the study as well.

7. Of course, such conditions are also designed to decrease the offender's opportunities for new crime (e.g., by making sure he is home in the evenings, working, and drug free).

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