

## Chapter 12

# Probation, Parole, and Intermediate Sanctions

# Learning Objective 1

- Explain the justifications for community-based corrections programs.



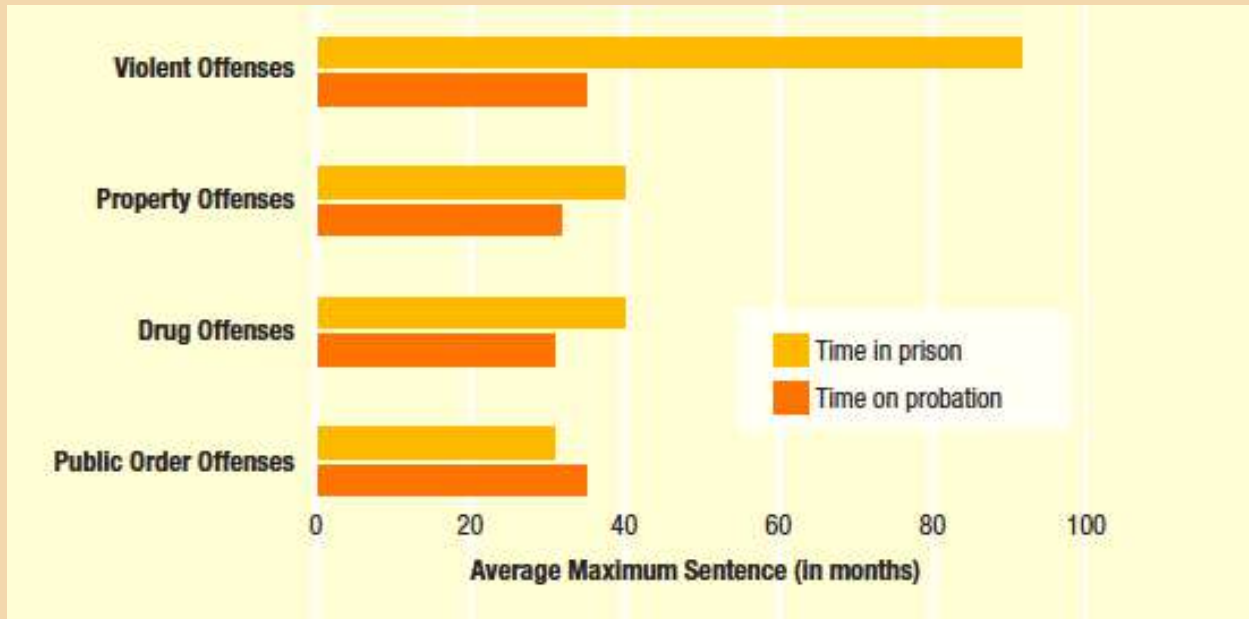
AP Photo/LM Otero, File

# The Justification for Community Corrections

- Reintegration
  - Preparing offenders to return to the community with incentives to follow the rules of society
- Diversion
  - Diverting those who qualify away from prison and jail and toward community-based corrections and intermediate sanctions
- The “low-cost alternative”
  - The lack of funds is a strong motivator for recent expansion of community-based corrections.

# Learning Objective 2

- Explain several alternative sentencing arrangements that combine probation with incarceration.



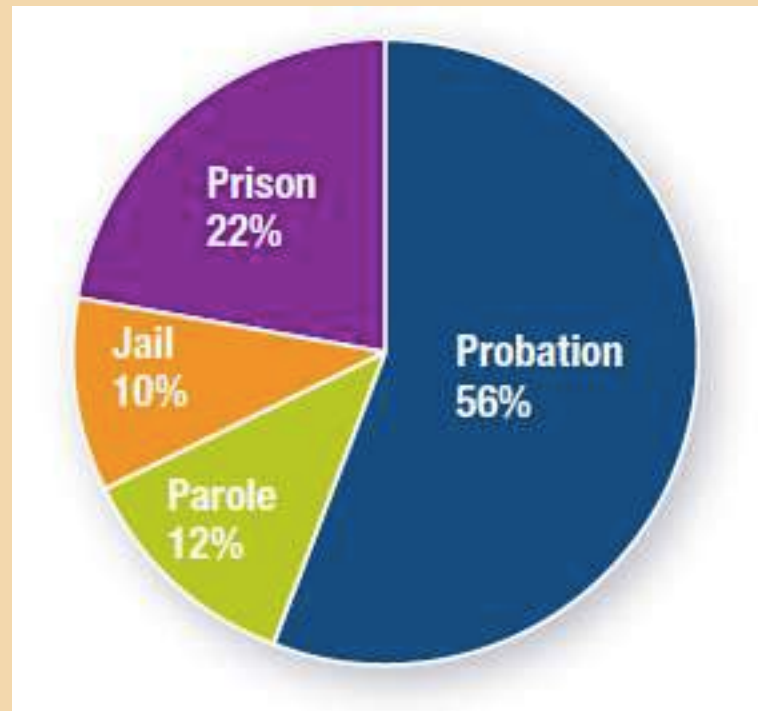
Source: Bureau of Justice Statistics, Felony Defendants in State Courts, 2009—Statistical Tables (Washington, D.C.: U.S. Department of Justice, December 2013), Table 25, page 30; and Table 27, page 31.

# Probation: Doing Time in the Community

- Sentencing and probation:
  - Probation is a criminal sanction in which a convict is allowed to remain in the community rather than be imprisoned, as long as she or he follows certain conditions set by the court
  - Suspended sentences—defendant is not required to serve the sentence
  - Alternative sentencing choices
    - Split sentences: e.g., shock probation; jail time and probation
    - Shock incarceration: jail time, but must petition for probation
    - Intermittent incarceration: work in a jail, workhouse, or government facility on weekends

# Learning Objective 3

- Specify the conditions under which an offender is most likely to be denied probation.



Source: Bureau of Justice Statistics, Correctional Populations in the United States, 2013 (Washington, D.C.: U.S. Department of Justice, December 2014), Table 1, page 2.

# Probation: Doing Time in the Community

- Offenders are most likely denied probation if they:
  - Are convicted on multiple charges
  - Were on probation or parole at the time of arrest
  - Have two or more prior convictions
  - Are addicted to narcotics
  - Seriously injured the victim of the crime
  - Used a weapon in the commission of the crime



# Learning Objective 4

- Describe the three general categories of conditions placed on a probationer.

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF COLUMBIA**

To: \_\_\_\_\_ No. 84-417

Address: 1440 N St., N.W., #10, Wash., D.C.

In accordance with authority conferred by the United States Probation Law, you have been placed on probation this date, January 25, 2016 for a period of one year by the Hon. Thomas F. Hogan United States District Judge, sitting in and for this District Court at Washington, D.C.

**CONDITIONS OF PROBATION**

It is the order of the Court that you shall comply with the following conditions of probation:

- (1)-You shall refrain from violation of any law (federal, state, and local). You shall get in touch immediately with your probation officer if arrested or questioned by a law enforcement officer.
- (2)-You shall associate only with law-abiding persons and maintain reasonable hours.
- (3)-You shall work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. When out of work you shall notify your probation officer at once. You shall consult him prior to job changes.
- (4)-You shall not leave the judicial district without permission of the probation officer.
- (5)-You shall notify your probation officer immediately of any change in your place of residence.
- (6)-You shall follow the probation officer's instructions.
- (7)-You shall report to the probation officer as directed.
- (8)-You shall not possess a firearm (handgun or rifle) for any reason.

The special conditions ordered by the Court are as follows:

Imposition of sentence suspended, one year probation, Fine of \$75 on each count.

I understand that the Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

I have read or had read to me the above conditions of probation. I fully understand them and I will abide by them.

\_\_\_\_\_  
Probationer

You will report as follows: \_\_\_\_\_ as directed by your Probation Officer

\_\_\_\_\_  
U.S. Probation Officer



# Probation: Doing Time in the Community

- Conditions of probation:
  - Standard conditions
    - Imposed on all probationers
  - Punitive conditions
    - Designed to reflect the seriousness of the offense and increase punishment
  - Treatment conditions
    - Designed to help the offender with issues that may contribute to criminal activity
  - Failure to comply may result in revocation

# Probation: Doing Time in the Community

- The role of the probation officer:
  - Conducting the presentence investigation (investigative officers)
  - Supervising offenders (line officers)
- Centralized versus decentralized probation services
- The ideal relationship between probationer and probation officer is based on trust.
  - In the absence of trust, this relationship is based on authority.

# Probation: Doing Time in the Community

- Revocation of probation:
  - Probation ends in one of two ways.
    - The probationer successfully fulfills the conditions of the sentence.
    - Probationer misbehaves and probation is revoked.

# Probation: Doing Time in the Community

- The revocation process
  - The preliminary hearing
  - The revocation hearing
  - The revocation sentencing
- Probationer rights
  - *Mempa v. Ray* (1967)
  - *Morrissey v. Brewer* (1972)
  - *Gagnon v. Scarpelli* (1973)

# Learning Objective 5

- Explain the main differences between probation and parole.

## Mastering Concepts Probation versus Parole

Probation and parole have many aspects in common. In fact, probation and parole are so similar that many jurisdictions combine them into a single agency. There are, however, some important distinctions between the two systems, as noted below.

	Probation	Parole
Basic Definition	An <b>alternative to imprisonment</b> in which a person who has been convicted of a crime is allowed to serve his or her sentence in the community subject to certain conditions and supervision by a probation officer.	An <b>early release</b> from a correctional facility, in which the convicted offender is given the chance to spend the remainder of her or his sentence under supervision in the community.
Timing	The offender is sentenced to a probationary term in place of a prison or jail term. If the offender breaks the conditions of probation, he or she is sent to prison or jail. Therefore, <b>probation generally occurs before imprisonment</b> .	Parole is a form of early release. Therefore, <b>parole occurs after an offender has spent time behind bars</b> .
Authority	<b>Probation is under the domain of the judiciary.</b> A judge decides whether to sentence a convict to probation, and a judge determines whether a probation violation warrants revocation and incarceration.	<b>Parole often falls under the domain of the parole board.</b> This administrative body determines whether the prisoner qualifies for early release and the conditions under which the parole must be served.
Characteristics of Offenders	As a number of studies have shown, probationers are normally less involved in the criminal lifestyle. Most of them are <b>first-time offenders who have committed nonviolent crimes</b> .	Many parolees have <b>spent months or even years in prison</b> and, besides abiding by conditions of parole, must make the difficult transition to "life on the outside."

# The Parole Picture

- Probation
  - The offender is sentenced to a probationary term in place of a prison or jail term.
    - Therefore, probation generally occurs before imprisonment.
- Parole
  - Parole is a form of early release.
    - Therefore, parole occurs after an offender has spent time behind bars.



# The Parole Picture

- Probation
  - If the offender breaks the conditions of probation, he or she is sent to prison or jail.
- Parole
  - In many ways, parole supervision is similar to probation supervision.
  - Violation of conditions may result in revocation and return to prison.
    - About a quarter of parolees return to prison before the end of their parole period, most because they were convicted of a new offense or had their parole revoked.

# The Parole Picture

- Probation
  - Under the domain of the judiciary
    - A judge decides whether to sentence a convict to probation, and a judge determines whether a probation violation warrants revocation and incarceration.
- Parole
  - Parole often falls under the domain of the parole board.
    - This administrative body determines whether the prisoner qualifies for early release and the conditions under which the parole must be served.

# The Parole Picture

## **FIGURE 12.4** Standard Conditions of Parole

**The parolee must do the following:**

- Stay within a certain area.
- Obtain permission before changing residence or employment.
- Obtain and maintain employment.
- Maintain acceptable, nonthreatening behavior.
- Not possess firearms or weapons.
- Report any arrest within twenty-four hours.
- Not use illegal drugs or alcohol or enter drinking establishments.
- Not break any state or local laws.
- Allow contacts by parole officers at home or employment without obstruction.
- Submit to search of person, residence, or motor vehicle at any time by parole officers.

# Discussion Questions

- Discuss the effectiveness of parole as well as probation.
  - Do you believe that probation deters criminals from committing crimes? If yes, why and if no, why not?
  - What about parole? Do you think it is more or less effective, and under what circumstances?

# Learning Objective 6

- Explain which factors influence the decision to grant parole.



AP Images/Jim Cole

# The Parole Picture

- Roles of the parole board:
  - To decide which offenders should be placed on parole
  - To determine the conditions of parole and aid in the continuing supervision of the parolee
  - To discharge the offender when the conditions of parole have been met
  - If a violation occurs, to determine whether parole privileges should be revoked



# The Parole Picture

- The parole board uses a number of criteria to determine release
  - The nature and circumstances of the underlying offense and the offender's current attitude toward it
  - The offender's prior criminal record
  - The offender's attitude toward the victim and the victim's family members
  - The offender's physical, mental, and emotional health
  - The offender's behavior behind bars, including his or her participation in programs for self-improvement

# Learning Objective 7

- Contrast day reporting centers with intensive supervision probation.



Scott Keeler/Tampa Bay Times/ZUMAPRESS.com/Newscom

# The Parole Picture

- Judicially administered intermediate sanctions
  - Fines
  - Community service
  - Restitution
  - Forfeiture
  - Pretrial diversion programs

# Intermediate Sanctions

- Day reporting centers
  - Tools to reduce jail and prison overcrowding
  - Offenders allowed to remain in community
- Intensive supervision probation
  - More restrictive alternative to regular probation
  - Higher levels of face-to-face contact between offenders and officers
  - Frequent modes of control, such as urine tests for drugs

# Learning Objective 8

- List the three levels of home monitoring.



AP Images/Wilfredo Lee

# Intermediate Sanctions

- Levels of home monitoring:
  - Curfew
  - Home detention
  - Home incarceration
- Types of electronic monitoring:
  - Programmed contact
  - Continuously signaling



# Learning Objective 9

- Summarize the paradox of community corrections



Los Angeles County Probation Department

# Intermediate Sanctions

- The “quicksand effect” of increased surveillance
  - The more effectively offenders are controlled, the more likely they are to be caught violating the terms of their conditional release.