



COMMUNITY-BASED CORRECTIONS

ELEVENTH EDITION

LEANNE FIFTAL ALARID



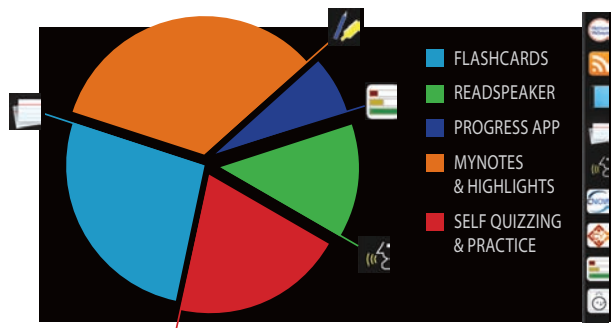
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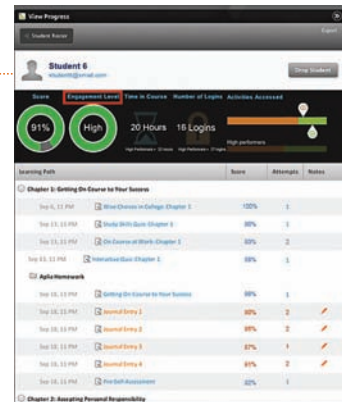


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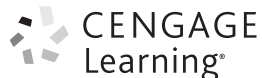


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ELEVENTH EDITION

LEANNE FIFTAL ALARID

The University of Texas at El Paso



Australia • Brazil • Mexico • Singapore • United Kingdom • United States

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*To my students at the University of Texas at El Paso
May you find mucho felicidad y prosperidad in
the pursuit of your American dream.
Leanne Alarid*

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PREFACE

Evidence-based practices (EBP) are changing the way that many agencies operate to an acceptance of empirical research and evaluation to determine what improvements can be made for more efficient use of rehabilitation programs and correctional technology. Through the principles of effective correctional intervention, more has been learned about what works with certain types of offenders. There is also a broader array of choices available as alternatives to incarceration than ever before. EBP has caused a dramatic shift in the way that offenders are supervised in the community and prepared for release from prison.

This book operates on two assumptions. First, most people who are diverted from a conviction or who are convicted of a crime are supervised in the community on a form of community-based corrections and not in jail or prison. The second assumption is that while some people should be incarcerated for their crimes, the reality is that few are kept for the remainder of their natural lives. Between 95%–97% of people in jail or prison today will be released at some point and many will undergo a period of community supervision as they transition back to the community. This book examines programs that operate to fit the needs of various types of offenders.

The goal of the eleventh edition of *Community-Based Corrections* is to provide students with a comprehensive and practical guide to EBP and academic research on probation, release from prison, and other community-based alternatives. Community-based correctional programs are based in their historical, philosophical, social, and legal contexts and to integrate real-life practice to the greatest extent possible. Because this book is meant to have practical use, examples of actual community-based programs and procedures are used from various jurisdictions, while at the same time, recognizing that local community corrections programs vary widely.

NEW TO THIS EDITION

This edition features nine new EBP boxes to better feature what programs and techniques work in community-based corrections. The theme for these boxes is entitled “Evidence-Based Practices in Community Corrections.” This feature investigates techniques in community corrections supervision and correctional programs that are most effective in reducing recidivism. In Chapter 1, theories relative to community correctional goals were further explained, that include protecting the public through monitoring and specific deterrence theory, rehabilitation through risk, needs, and responsivity theory, and restorative justice. A new chapter opening story was provided on singer, Justin Bieber.

Chapter 2 introduces a new approach to community supervision (and a new glossary term) called criminogenic needs-based supervision that is further discussed in Chapters 5 and 12. The neighborhood-based supervision model is

expanded upon in Chapter 2. Chapter 3 contains a new chapter opening story on Lynne Stewart, a former defense attorney who received compassionate release from prison. In the origins of parole section, the reformation contributions of Georg Michael Von Obermaier have been completely rewritten—after finding a more detailed article published in 1937 about his contributions to parole. Two tables were replaced with pie charts showing the same data in aggregated form. One of the tables was each individual state’s releasing authority and sentencing structure, and the other was the types of release from prison. The section on medical parole and compassionate release were updated.

Chapter 4 contains a new chapter opening story about the sentencing of Oscar Pistorius, an Olympic and Paralympic athlete who was found culpable in the death of his girlfriend. Figure 4.1 was updated to include names of offenses within federal sentencing guidelines. An improved example of an indeterminate sentence for community corrections was added in Figure 4.4. Chapter 4 also contains updated coverage on the most recent findings related to drug courts and other problem-solving courts.

Chapter 5 is newly titled to: “Case Management Using Risk/Needs/Responsivity” to incorporate more of the RNR research and practices. The chapter also has increased coverage on emergent practices in case planning, strategies, and an expanded section on working with women offenders and gender responsive strategies. Many of these practices, such as risk/needs/responsivity, and motivational interviewing are consistent with EBP. This chapter has a new chapter opening story on Olympic medalist, Michael Phelps and his second DUI arrest. The questionnaire at the end of this chapter was revised to include pertinent information for the Ohio Risk Assessment System.

Chapter 6 contains a new chapter opening story on mixed martial artist, Tito Ortiz. This chapter also has updated coverage for community supervision techniques for drug offenders, offenders with mental illness, and sex offenders. Given that many gang members are juveniles, the section on supervising gang members was moved from Chapter 6 to Chapter 13. Chapter 7 incorporates the most recent and updated literature on revocation and recidivism rates with two new tables and figures.

Chapter 8 has a new chapter opening story about Jesse Jackson Jr. leaving prison for a halfway house. Information on Hannah Chickering, who established the first halfway house for female prisoners and their children, has been added to the history of halfway houses. New evaluations of halfway houses have been added, as well as a new box called: “Who Should get Cognitive-Behavioral Treatment and How Much is Enough?”

Chapter 9 has a new opening story about Torrey Dale Grady and a recently decided U.S. Supreme Court case that could potentially affect post-conviction lifetime electronic monitoring of sex offenders. Chapter 10 also has a new opening story about victim offender mediation after a death caused by texting while driving. The first part of Chapter 10 was updated with new glossary terms, including a new section on procedural justice theory, and rewritten sections on conferencing, reparation boards/victim impact panels, restitution, and fees.

Chapter 11 on reentry has been lengthened and updated to include a new chapter opening story and a brand new section on workforce development and evaluating reentry initiatives with respect to employment outcomes and recidivism. The U.S. map of legal barriers has been updated and a new table of firearms restrictions for convicted offenders has been created. A section on parole and mandatory supervision effectiveness has also been consolidated and summarized at the end.

Chapter 12 has a new chapter opening story on a recent Georgia Supreme Court case on limiting private probation agencies for actions related to nonpayment. The section on probation privatization has been updated, as well as the section on officer training requirements and sample curriculum topics. Chapter 13 opens with discussion on youths caught up in the Baltimore riots that occurred in April of 2015 after the death of Freddie Gray inside a police van. A new section has been added entitled: “Supervising High-Risk Juveniles in the Community.” This section includes home visits, youth gang members (section moved from the end of Chapter 6 in 10e) and youths who parole from prison, are among the youths who are likely to recidivate or continue criminal behavior into adulthood. There is updated information on teen/youth courts as approaches for opportunity-focused supervision for working with at-risk juveniles on probation and their families.

In Chapter 14, a new chapter opening story on Mark Wahlberg’s recent application for a pardon was discussed. Two boxes were replaced—the technology box in 14.1 was replaced with a box about challenges to implementing EBP. Table 14.1 (restoration of voting rights) was replaced with discussion about legal assistance that law schools can provide former felons who wish to have their rights restored.

Learning Tools

Each chapter opens with a recent human interest story that corresponds to the material in that particular chapter. Each story involves either a highly publicized case, or a well-known person who is serving a community corrections sentence, such as Michael Phelps, Chris Brown, or Justin Bieber. This allows the student to relate to the people in these cases, and help them better understand the material throughout each chapter. Each chapter has learning objectives of noteworthy concepts in a bulleted list format. Key terms are boldfaced in the text, with their accompanying definitions in the margins, and also defined in the glossary at the back of the book. There are 2–3 “Truth or Fiction” feature boxes presented in the margins of most chapters. This feature presents an issue that is commonly perceived in a particular way (such as whether or not criminals can be rehabilitated) and then immediately follows up as to whether that perception is factual or a myth.

The most notable pedagogical teaching tool available in this text allows the students to apply kinesthetic learning and case study methods to examine an arrest report and criminal background check on a created defendant, named Sue Steel. The client information and arrest report is initially presented at the end of Chapter 4. The student can then engage in a mock interview with that client, and prepare a presentence report from that interview. In Chapter 5, the student can score a risk/needs assessment and create an individualized supervision plan for the client. Then, supervision options can be discussed from Chapter 6 through Chapter 11. All of these tools are placed in the appropriate chapters, so students can engage in real-world experiences as they read the text. Each chapter contains the following pedagogical features:

BOXED FEATURES There are four boxed features running through the text in most chapters. The newest box theme is “Evidence-Based Practices in Community Corrections.” This feature investigates techniques in community corrections supervision and correctional programs that are most effective in reducing recidivism. The second box theme is “Technology in Corrections;” that illustrates how advancements in

equipment and knowledge about data systems have impacted community corrections supervision. The third box theme is “Corrections Up Close” that investigates a particular topic in more detail as it pertains to the chapter material. The “Field Notes” boxed text features eight different practitioners who write about a different correctional issue from their own perspective.

CHAPTER REVIEW Each chapter is followed by a bulleted summary list. Discussion questions are included to encourage students to critically think about the material in each chapter. Some discussion questions can be designed as topics for essay questions, exams, or research papers. A listing of websites, videos, and podcasts are available on-line for instructors and students to seek more information on material presented within the chapter.

CASE STUDIES Each chapter has case studies for in-class discussion or to use as a basis for writing assignments. Each case study provides the student with background information about an offender and requires that the student incorporate a problem-solving skill that was discussed in that chapter, such as and apply them to individual offenders in a similar way to judges, probation officers, and parole board members face on a daily basis.

ANCILLARIES

For the Instructor

MINDTAP FOR CRIMINAL JUSTICE from Cengage Learning represents a new approach to a highly personalized, online learning platform. A fully online learning solution, MindTap combines all of a student’s learning tools—readings, multimedia, activities, and assessments in to a singular Learning Path that guides the student through the curriculum. Instructors personalize the experience by customizing the presentation of these learning tools for their students, allowing instructors to seamlessly introduce their own content into the Learning path via “apps” that integrated into the MindTap platform. Additionally, MindTap provides interoperability with major Learning Management Systems (LMS) via support for industry standards and fosters partnerships with third-party educational application providers to provide a highly collaborative, engaging, and personalized learning experience.

ONLINE INSTRUCTOR’S MANUAL includes learning objectives, key terms, a detailed chapter outline, a chapter summary, lesson plans, discussion topics, student activities, “What If” scenarios, media tools, and a sample syllabus. The learning objectives are correlated with the discussion topics, student activities, and media tools.

ONLINE TEST BANK Each chapter’s test bank contains questions in multiple-choice, true false, completion, essay, and new critical thinking formats, with a full answer key. The test bank is coded to the learning objectives that appear in the main text, and includes the section in the main text where the answers can be found. Finally, each question in test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage.

ONLINE POWERPOINT® LECTURES Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft

PowerPoint slides outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides are updated to reflect the content and organization of the new edition of the text, are tagged by chapter learning objective, and feature some additional examples and real-world cases for application and discussion.

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Leanne F. Alarid

Part I

Overview and Evolution of Community Corrections

The idea behind community corrections programs is that most offenders can be effectively held accountable for their crimes at the same time that they fulfill legitimate living standards in the community. Most offenders do not pose an imminent danger to themselves or to others and can therefore remain in the community without endangering public safety. Offering correctional options for offenders living in the community confers several benefits.

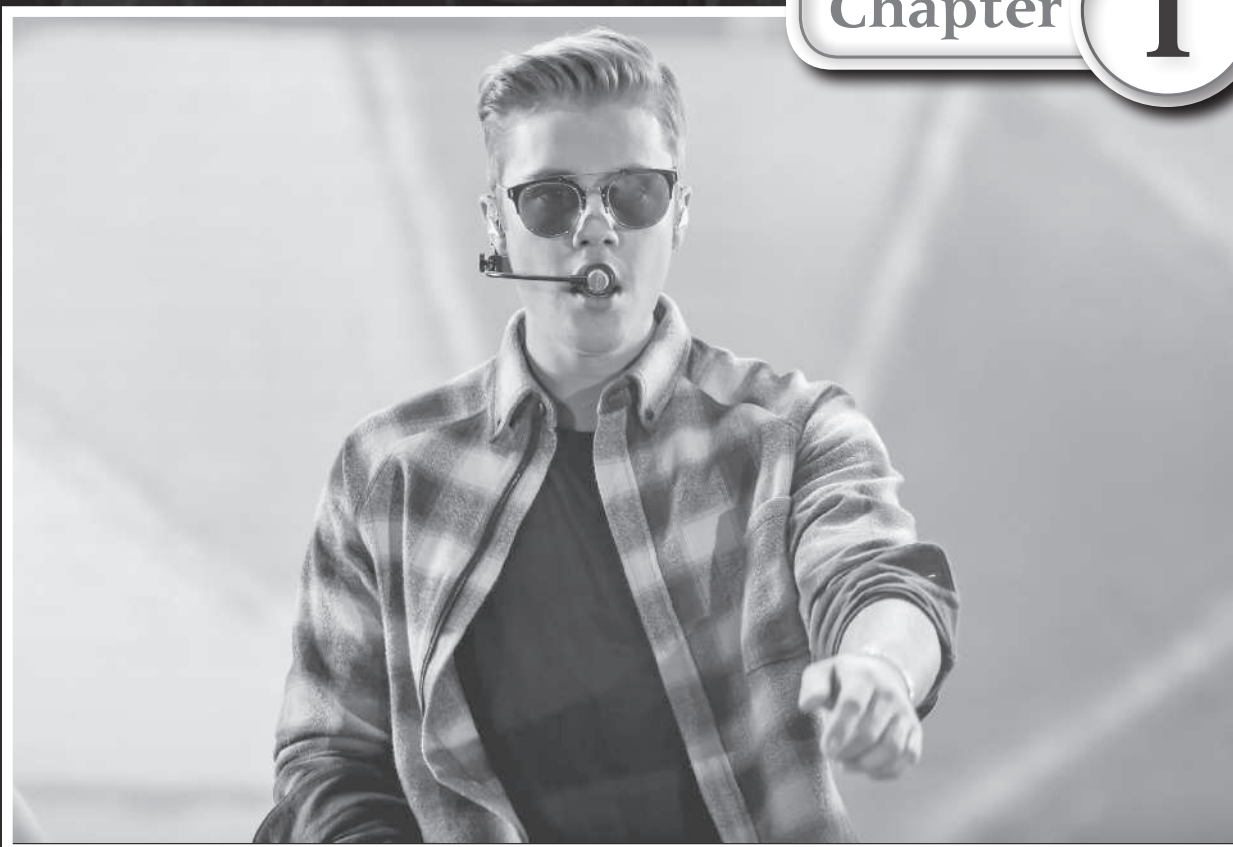
First, the offender continues to contribute toward individual and familial responsibilities with legitimate employment, paying income taxes, and child support. Second, offenders living in the community are more likely than prison-bound offenders to compensate victims through restitution or to pay back the community through community service. Finally, community corrections programs do not expose offenders to the subculture of violence that exists in many jails and prisons.

Chapter 1 introduces the array of community corrections programs and explains why the study of community corrections is important, including the movement of the field toward evidence-based practices. Chapter 2 chronicles the history of probation from the early 1800s to the present, including a section discussing how supervision philosophy has changed over time, and ends with a description of who is on probation. Chapter 3 examines the history of reentry that began as discretionary parole, which, for violent and habitual offenders, has been replaced by mandatory release. Discretionary parole remains an important decision point in the correctional process, with medical parole becoming the newest issue for the compassionate release of terminally ill prisoners.

An Overview of Community Corrections: Goals and Evidence-Based Practices

Chapter

1



Chelsea Lauren/Getty Images

CHAPTER OUTLINE

- **The Correctional Dilemma**
 - Indeterminate Sentencing
 - Origins of Determinate Sentencing
- **The Paradox**
 - Public Opinion About Community Corrections
 - Prison is Expensive
- **The Role of Corrections at Three Major Decision Points**
 - Pretrial and Bail Decisions
 - Sentencing Decision
 - Reentry Decision
- **Theories Behind Community Corrections Goals**
 - Protecting the Public Through Specific Deterrence
 - Rehabilitation Through Risk/Need/Responsivity
 - Healing the Victim and Community Through Restorative Justice
- **An Integrated Theory of Community Supervision: The Participation Process Model**
- **Evidence-Based Practices in Community Corrections**
 - Evaluating Effectiveness
 - Outcome Measures in Evaluation
- **Summary**

CHAPTER LEARNING OBJECTIVES

1. Define corrections and its purpose.
2. Explain the role of corrections at each of the three main decision points.
3. Analyze the theories behind correctional goals of punishment and rehabilitation.
4. Explain the importance of evidence-based practices to evaluating effectiveness and achieving correctional goals.

KEY TERMS

community corrections
post-adjudication
pre-adjudication
probation
indeterminate sentencing
determinate sentencing
bail
pretrial supervision
intermediate sanctions
prisoner reentry
prerelease program
parole
specific deterrence theory
rehabilitation
risk/need/responsivity (RNR)
criminogenic needs
restorative justice
participation process model
evidence-based practices (EBP)
net widening
recidivism

In the last two years, Justin Bieber has seemingly been in the news more often for acting in an aggressive, crude, and disrespectful manner in public than for his singing career. Beginning in July 2013, reports included marijuana use and urinating in a restaurant mop bucket.

A few months later while on tour, Bieber was repeatedly involved in late-night deviance that included nightclub brawls, brothel visits, and allegedly assaulting an individual at a South Korea nightclub. While in Brazil, he vandalized a hotel wall with graffiti and was fined for the damage.

In January 2014, Bieber was pulled over in Miami Beach for drag racing a rented Lamborghini. Bieber failed the field sobriety test and was arrested for driving under the influence (DUI). He also admitted using marijuana and taking prescription medicines. He was charged with driving with an expired driver's license and resisting arrest.

In July 2014, Bieber was placed on two years of probation in California for vandalism (egging a neighbor's house). Part of the probation included five days of community service, completion of 12 weeks of anger management, and victim restitution totaling over \$80,000.

A few months later in Ontario, Canada, near his father's home, he was arrested for dangerous driving and assault when his ATV allegedly collided with a photographer's minivan, and Bieber got physical with a paparazzi. Probation officials investigated the case to determine if Bieber's actions violated the conditions of his California probation. As of May 2015, Bieber has remained on probation and has made progress toward his court-ordered conditions.

Considering his prior behaviors and the most recent offense, is it appropriate for Bieber to be back under community supervision or some other type of correctional program?

THE CORRECTIONAL DILEMMA

“Incarceration reduces crime ... but only up to a point. Once the incarceration rate hits a certain level—at the state level this tipping or inflection point appears to be 325 inmates per 100,000 population—crime rates actually increase.”

(Byrne, 2013, p. 9)

In the United States, nearly 7 million people, equivalent to about 3% of the total adult population, are currently under some form of correctional supervision, which includes those sentenced to prison, jail, or community supervision. Our nation’s crime control policies over the past three decades have been driven by the assumption that incarceration reduces crime. Experts estimate that there is only a small reduction at best, especially when compared to other strategies. A 10% increase in the incarceration rate is associated with only between 1% and 4% decrease in the crime rate (Stemen, 2007). On the other hand, more police officers, a decreased unemployment rate, increase in wages, and an increase in citizen education levels have all shown to decrease crime rates at levels greater than what prison can achieve (Byrne, 2013).

Because incarceration as a method of crime reduction is such a costly endeavor, many states have realized that we cannot build our way out of the crime problem. The economic recession of 2008 was a contributing factor to how local and state government thought about reducing correctional costs relative to other costs such as health care, education, and transportation. In 2009, the overall correctional population declined slightly for the first time in 40 years (VERA Institute of Justice, 2010). Most states are continuing to actively reduce the number of people in the corrections system while others are reallocating resources from costly jails and prisons to less costly but effective correctional approaches within the community.

This text focuses exclusively on community-based corrections. **Community corrections** refers to any sanction in which offenders serve all or a portion of their entire sentence in the community. Most community corrections options are **post-adjudication**, which means that the defendant has either pleaded guilty or been found guilty by a judge or jury. After a finding of guilt, the court sentences the defendant, and the corrections system carries out that sentence. Some types of community correctional supervision, however, are **pre-adjudication**, which means that treatment with supervision occurs in the community *prior* to a finding of guilt. Table 1.1 distinguishes these differences.

A community sentence seeks to repair the harm the offender has caused the victim or the community and to reduce the risk of reoffending in the future. Figure 1.1 shows the wide variety of community-based sanctions available, ranging from residential programs (halfway houses, prerelease facilities, and therapeutic communities) to economic sanctions (restitution, fines, and fees) to nonresidential or outpatient options (probation, parole, and electronic monitoring).

The most common form of community supervision is **probation**. Probation is defined as the release of a convicted offender under conditions imposed by a court for a specified period, during which time that court retains authority to modify those conditions or to resentence the offender if he or she violates those



community corrections

A nonincarcerative sanction in which offenders serve all or a portion of their sentence in a community.



post-adjudication

The state in which a defendant has been sentenced by a court after having either pleaded guilty or been found guilty by a judge or jury. Being adjudicated is equivalent to a conviction.



pre-adjudication

The state in which a defendant has not yet pleaded guilty or been found guilty by a judge or jury. Said defendant is either in a pretrial stage or has been offered deferred adjudication.



probation

Community supervision of a convicted offender in lieu of incarceration under conditions imposed by a court for a specified period, during which it retains authority to modify those conditions or to resentence said offender if he or she violates those conditions.

TABLE 1.1 Pre-Adjudication vs. Post-Adjudication Corrections

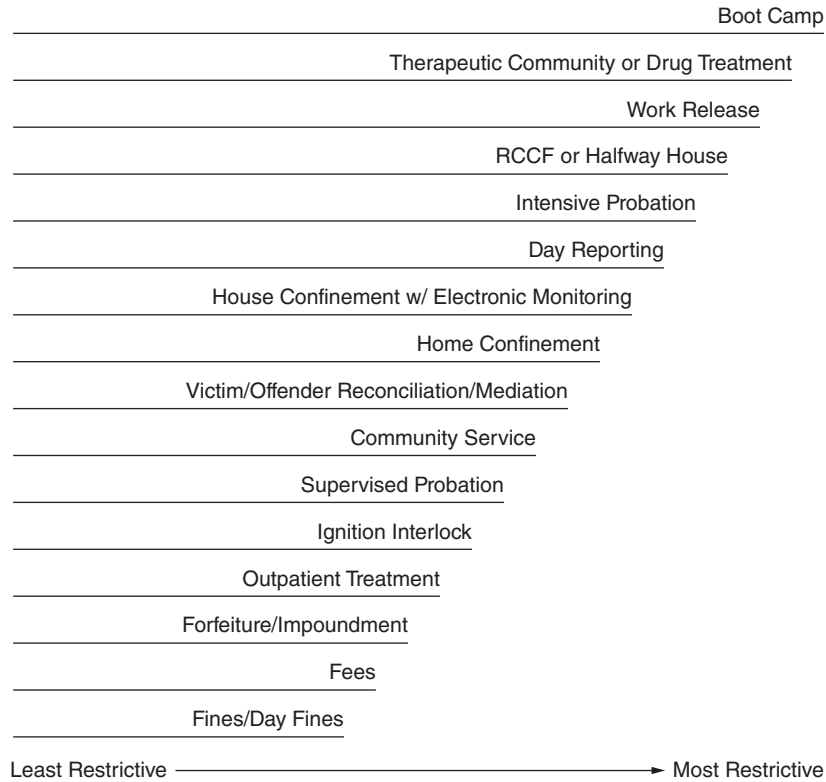
PRE-ADJUDICATION CORRECTIONS	
Community Corrections	Institutional Corrections
Pretrial release	Jail
Pretrial supervision/house arrest	Jail-based work release
Victim–offender mediation	
Diversion/deferred adjudication	
POST-ADJUDICATION CORRECTIONS	
Community Corrections	Institutional Corrections
Probation supervision (regular)	Jail
Probation supervision (intensive/specialized)	Prison
Mandatory release or discretionary parole	
Probation or Parole Add-Ons	Treatment While Incarcerated
Residential halfway house/prerelease facility	Reentry preparation classes
Residential substance abuse facility	Prison-based therapeutic community
Drug court or mental health court	Psychotropic medications
Outpatient treatment/therapy (substance abuse, parenting, battering/assault, sex offender)	Prison-based cognitive-behavioral therapy
Education/classes (school, life skills, vocational, financial/credit counseling)	Education or vocational opportunities
Electronic monitoring/global positioning	
Day reporting centers	
Community service	
Restitution, fines, fees	
Community reparation boards	

conditions. Probation forms the basis of community supervision, and most of the other sanctions introduced in Figure 1.1 are programs or conditions that can be applied in different combinations to different offenders to achieve individualized results. The American Probation and Parole Association (APPA) was created to bridge these alternatives. As an international policy and educational organization for practitioners who work with adults and juveniles in the field of community corrections, the APPA serves to educate and train members and to develop standards for the discipline.

Table 1.2 shows the latest government statistics on the number of people currently under some form of correctional supervision. There were nearly 4 million offenders on probation and over 853,000 on parole/supervised release, for a total community corrections population of nearly 5 million (Herberman & Bonczar, 2014). Although men account for a disproportionately greater percentage of offenders than women, most women are eligible for a community

FIGURE 1.1
Community Corrections by Restrictiveness.

Adapted from: Center for Community Corrections (1997). *A Call for Punishments That Make Sense*, p. 37. Washington, DC: Bureau of Justice Assistance. Retrieved from: www.communitycorrectionsworks.org/steve/nccc/punishments.pdf



TRUTH OR FICTION?

Even though the United States has the highest incarceration rate in the world when compared to other countries, probation is still the most common correctional sentence in the United States.

TRUE

FACT: There is more than twice the number of Americans on probation than in all jails and prisons combined. This is because probation includes deferred adjudication, diversion, and post-conviction community sentences.

corrections sentence because they tend to have shorter criminal histories and commit fewer violent crimes by comparison. Women comprise 24% of probationers, 12% of parolees, and 7% of all prisoners.

There are considerably more male and female offenders under community supervision than those incarcerated in jail and prison. The correctional system carries out the order of the courts, but the variance in the *rate* per 100,000 people is derived from a number of factors that include the nature of each state’s sentencing laws, police discretion in responding to criminal behavior, the rate of release from prison, and each agency’s probation and parole violation policy. We begin by describing the nature of sentencing, which is distinguished by two basic philosophies: indeterminate and determinate.

Indeterminate Sentencing

From the 1930s to the mid-1970s, **indeterminate sentencing** was the primary sentencing philosophy in the United States. Under this model, judges decided who went to prison, and parole boards decided when offenders were rehabilitated and ready for release on parole. The release date was unknown by an offender and subject to a majority decision of the parole board, which determined whether that offender was making sufficient progress toward rehabilitation and was ready to rejoin the larger society. While incarcerated, offenders were able to enroll in a variety of programs aimed at self-improvement and skill building to demonstrate readiness for the parole board.


 **indeterminate sentencing**
A sentencing philosophy that encourages rehabilitation and incorporates a broad sentencing range in which discretionary release is determined by a parole board, based on an offender’s remorse, insight into his or her mistakes, involvement in rehabilitation, and readiness to return to society.

TABLE 1.2 Adults on Probation, on Parole, in Jail and in Prison: 1980–2014

Year	Total Estimate in Millions	COMMUNITY SUPERVISION		INCARCERATION	
		Probation	Parole	County Jail	State & Fed Prison
1980	1.84	1,118,097	220,438	182,288	319,598
1982	2.19	1,357,264	224,604	207,853	402,914
1984	2.69	1,740,948	266,992	233,018	448,264
1986	3.24	2,114,621	325,638	272,735	526,436
1988	3.74	2,356,483	407,977	341,893	607,766
1990	4.35	2,670,234	531,407	403,019	743,382
1992	4.76	2,811,611	658,601	441,781	850,566
1994	5.14	2,981,022	690,371	479,800	990,147
1996	5.49	3,164,996	679,733	518,492	1,127,528
1998	6.13	3,670,441	696,385	592,462	1,224,469
2000	6.46	3,839,532	725,527	621,149	1,316,333
2002	6.76	4,024,067	750,934	665,475	1,367,547
2004	7.00	4,151,125	765,819	713,990	1,421,911
2006	7.20	4,237,023	798,202	765,819	1,492,973
2008	7.31	4,270,917	828,169	785,533	1,522,834
2010	7.08	4,055,514	840,676	748,728	1,518,104
2012	7.11	3,942,800	851,200	744,524	1,570,397
2014	7.07	3,910,600	853,200	731,208	1,574,751

Notes: Counts are for December 31 of each year, except for the most recent year (which is as of January 1); jail population counts are for June 30 of each year; jail estimates include convicted prisoners awaiting transfer to prison facilities. Some data have been revised based on the most recently reported counts and may differ from previous estimates.

Sources: All sources for all years of this table were published by the Bureau of Justice Statistics, U.S. Department of Justice in Washington, DC. Most recent estimates from: Carson, E. Ann. 2014. *Prisoners in 2013*. NCJ 247282. Washington, DC: U.S. Department of Justice; Glaze, Lauren E. 2011. *Correctional Population in the United States, 2010*, NCJ 236319. Washington, DC: U.S. Department of Justice; Herberman, Erin J., and Thomas P. Bonczar. 2014. *Probation and Parole in the United States, 2013*, NCJ 248029. Washington, DC: U.S. Department of Justice; Minton, Todd D., and Daniela Golinelli. 2014. *Jail inmates at midyear 2013—Statistical Tables*. NCJ 245350. Washington, DC: U.S. Department of Justice.

DISCRETIONARY PAROLE AS A RELEASE STRATEGY. Parole was also used as a backdoor strategy for controlling the prison population. When prisons became too crowded, the parole rate increased to make room for incoming prisoners. Under indeterminate sentencing, offenders who did not go to prison were, for the most part, placed on probation. Few intermediate sentencing options existed other than prison or probation. Options that did exist, such as halfway houses and intensive probation, were used infrequently.

Support for indeterminate sentencing declined as people questioned whether prison rehabilitation worked and whether parole boards could accurately determine when offenders were ready for release. This lack of confidence in correctional programming peaked in 1974 with Robert Martinson's publication concluding that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far had no appreciable effect on recidivism" (p. 25). Martinson's

findings were poorly stated, criticisms were lodged against the methodology used, and Martinson later recanted those statements. In the complete report published the next year, Douglas Lipton, Robert Martinson, Judith Wilks, et al. (1975) concluded:

While some treatment programs have had modest successes, it still must be concluded that the field of corrections has not as yet found satisfactory ways to reduce recidivism by significant amounts. (p. 627)

Both of these publications began a national debate about the efficacy of treatment programs. Ironically, the original intent of Martinson's article was to attempt to decrease the use of *prisons* rather than the use of treatment programs, so unbeknownst to his coauthors, Martinson published the solo piece and was ill prepared for the catastrophe that followed. His study was a prelude to one of the most conservative eras in American politics, wherein policy makers were looking for reasons to repudiate the putative liberal rehabilitation policies of previous decades.

In addition to raising questions about rehabilitation, indeterminate sentences created another problem called sentencing disparity. Most indeterminate sentences had a maximum ending date that was far in the future (such as 10 or 20 years) to allow adequate time to rehabilitate. With an unknown or ambiguous release date, nonviolent offenders spent many more years behind bars than their crimes warranted, whereas others—who may have convinced the parole board they were “cured”—were released after only a few years. This issue became a question of fairness and an attempt to reduce sentencing disparity.

Origins of Determinate Sentencing

Given the concerns of potential bias and perceived unfairness in the release decision, many indeterminate sentencing laws were repealed so that offenders convicted of similar crimes would serve roughly equal terms in prison. The American Friends Service committee recommended that sentences be categorized according to severity of crime based on two scales: the harm done by an offense and an offender's culpability. Judgment of the degree of culpability would be based partly on an offender's prior record. Having proposed punishment as the main goal of sentencing, the committee then ruled out prison as punishment for all but the most serious offenses—those in which bodily harm was threatened or done to a victim. The committee proposed alternatives such as periodic imprisonment, increased use of fines, and other lesser sanctions (von Hirsch, 1976).

At about the same time, David Fogel (1979) urged a narrowing of sentencing and parole discretion. His work was influential in helping to draft legislative change that became known in various states as **determinate sentencing**. One of his goals was to disconnect release date from prison program participation. He advocated abolishing parole boards and establishing “flat-time” sentencing for each class of felonies.

Maine became the first state to return to determinate sentencing in which the minimum and maximum sentence range was predefined and release was determined by legislative statute. Sentence length was therefore determined by time served rather than by how long it takes for an offender to become rehabilitated. With fewer sentencing options for judges, personal, familial, and environmental variables played less of a role in the sentencing process. The slogan “You do the crime, you do the time” became popular and funding for prison treatment



determinate sentencing

A sentencing philosophy that focuses on consistency for a crime committed, specifying by statute or sentencing guidelines an exact amount or narrow range of time to be served in prison or in a community and mandating a minimum amount of time before an offender is eligible (if at all) for release. Also known as a *presumptive, fixed, or mandatory sentence*.

programs diminished. In determinate sentencing, judges had less discretion, and though they are able to deviate slightly (higher or lower) from prescribed sentencing guidelines, they must provide justification for doing so. Parole board decision making was limited in many states to only nonviolent offenders or was abolished altogether (Porter, 2015).

Examples of determinate sentencing policies have included mandatory minimums, truth-in-sentencing, three strikes laws, and sentencing guidelines. All states have adopted some form of mandatory minimum sentencing laws that required violent or repeat offenders to serve a certain percentage of time before release would be considered. For example, truth-in-sentencing laws required that offenders serve at least 85% of their original sentence length before becoming eligible for release (Porter, 2015). Three strikes laws mandate long prison terms for a third felony conviction. Some states require a life sentence for violent third-time felons, while other states count any third felony, whether it is violent or nonviolent.

Sentencing guidelines form a matrix based on an offender's prior criminal record and current conviction, which a judge must follow at the federal level and also in those states where guidelines are mandatory. Some states have guidelines that are only suggestive, although others still have never developed sentencing guidelines. Even though guidelines have decreased sentencing disparity and created accountability for sentencing decisions, most judges have disliked limits on their discretion. Although probation is still allowed at the federal level, federal parole has been replaced by "supervised release" (either mandatory by statute or under the federal sentencing guidelines). Most states, however, have retained aspects of both indeterminate and determinate sentencing structures, examples of which are given in Chapter 4.

THE PARADOX

Correctional policy is in many ways a paradox between economic constraints on what we can afford and shifts in the tide of public perception—that is, in what is important to vocal constituents and public interest groups. Maruna and King (2008) note a shift away from expert-driven decisions in penal policy to one characterized "more explicitly by symbolic and expressive concerns ... [and] emotionalization of public discourse about crime and law" (p. 338). They argue that correctional policy is driven by politics rather than by rationality, and that public opinion is influenced by the media. The media have long been criticized for sensationalizing violence and atypical crimes while downplaying average or common crimes that never result in a prison sentence. The average American citizen, as a result, is only exposed to a very small percentage of the overall crime picture and is less informed than are experts about what should be done in response to crime.

Public Opinion About Community Corrections

Community corrections include alternatives to incarceration and early release from prison. One national public opinion poll indicated that the most well-known community-based corrections were probation, house arrest, and electronic monitoring. Less-familiar options were restorative justice, day reporting, and drug court. The majority of adults thought that alternatives to