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A RAND NOTE

Diverting Prisoners to Intensive Probation: Results of an Experiment In Oregon

Joan Petersilia, Susan Turner

September 1990

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The research described in this report was supported by the National Institute of Justice, U.S. Department of Justice, under Grant No. 87-IJ-CX-0060.

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N-3186-NIJ

Diverging Prisoners to Intensive Probation: Results of an Experiment In Oregon

Joan Petersilia, Susan Turner

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Supported by the
National Institute of Justice,
U.S. Department of Justice

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PREFACE

This Note contains the results of an evaluation of an Intensive Supervision Program (ISP) implemented by officials in Marion County, Oregon. The ISP was designed as a prison-diversion program and was accompanied by a randomized field experiment to assess the program's effects on cost and public safety. Offenders judged eligible to participate in the ISP experiment were randomly assigned to ISP or prison (the control program).

Funds to implement the ISP program were provided by the Bureau of Justice Assistance (BJA) to the Marion County Community Corrections Agency (MCCC). Funds to support the RAND evaluation were provided by BJA and the National Institute of Justice (NIJ).

The Note should interest practitioners who wish to understand the difficulties of implementing true prison-diversion ISPs and researchers who wish to learn some of the practical problems associated with randomized field experiments in criminal justice.

SUMMARY

As prisons across the country become more crowded, jurisdictions have been instituting intensive supervision programs (ISP)—programs designed to be more punitive and stringent than regular probation, but less expensive and brutal than prison. Advocates believe these programs hold promise for reducing prison populations, holding offenders accountable in the community, and maintaining public safety.

ISPs are generally of two types: prison diversion or probation/parole enhancement. And, although the ISP programs differ considerably across jurisdictions, most require offenders to participate in highly structured and intense programs that incorporate increased surveillance, including drug testing, monitored curfews, home visits, and other law enforcement checks.

While many ISP programs appear promising—reporting low costs and low recidivism rates—the evidence is not conclusive. Past evaluation methodologies have not been able to sort out whether the outcomes (e.g., recidivism rates) resulted from participating in ISP or from systematically biasing factors (e.g., less serious offenders being assigned to ISP). Without random assignment to programs, the evidence regarding the effectiveness of the ISPs is suspect.

In 1986, the Bureau of Justice Assistance (BJA) provided funding for an Intensive Supervision Demonstration project that involved random assignment of eligible offenders.¹ The primary interest was to determine how participation in the ISP program affected the subsequent behavior of offenders. This document reports on the practical experiences of one site, Marion County, Oregon, in implementing an ISP program as an alternative for prison offenders. Because of many difficulties, the program was eventually disbanded before suitable data could be gathered on its effectiveness.

THE MARION COUNTY, OREGON, SITUATION

The prison crowding problem in Oregon led to a “revolving door” justice system. Because of limited space, most felons convicted of nonviolent crimes could expect to serve only a fraction of their original sentences. Marion County officials were frustrated with the lack of suitable sanctions for their “intermediate offenders.” In an attempt to provide

¹Complete details of the randomized experiment are contained in Petersilia, 1989.

suitable sanctions for nonviolent offenders without sending them to state-level facilities, Marion County Community Corrections (MCCC) applied to participate in the BJA Demonstration Project, was accepted, and received \$145,000 to implement ISP as a prison diversion program over an 18-month period.

THE MARION COUNTY ISP PROGRAM

Offenders assigned to ISP were supervised by a team consisting of one probation officer and one surveillance officer. Offenders were required to comply with a number of specific conditions including intensive face-to-face and collateral contacts with the ISP officers during the first three months of ISP participation; daily work or job-seeking activities, payment of victim restitution and a monthly supervision fee, observing a strict curfew during the first three months, drug and alcohol tests as required by the ISP team, and community service. ISP participants were expected to be on ISP supervision for a minimum of six months, at which time the offender was transferred to regular probation supervision.

The original pool of eligible offenders for the ISP experiment consisted of all adults facing sentence for nonviolent offenses whose presentence investigation recommended prison. And while 160 offenders were considered as candidates during the 18-month period, only 28 offenders were finally approved by all parties and assigned to the study. Many screening steps including review by MCCC staff, ISP staff, the District Attorney, and agreement by the offender severely diminished the final study sample.

RAND collaborated throughout the course of the project, evaluating the program, developing the data collection instruments (background, 6- and 12-month progress was collected for each offender), training Marion staff in the actual data collection, implementing the random assignment, and conducting the quantitative and qualitative analyses for the evaluation.

PROJECT OUTCOMES

At the end of the experimental evaluation, 14 offenders had been randomly assigned to the ISP program; 14 had been assigned to prison. The ISP program appeared to deliver close to the stated number of surveillance contacts as outlined in the ISP program plan; however, the extent of offender participation in rehabilitative services (such as counseling, drug treatment, community service) was not as high as expected. More disappointing, however, was the status of offenders one year after assignment: None of the experimental offenders remained on ISP. Half of the ISP offenders had been sentenced to prison for

technical violations of their ISP terms. And despite the average five-year prison term for the prison-control offenders, two-thirds of the prisoners had been released from prison. In fact, the average amount of time the two groups spent incarcerated was nearly identical over the 12-month follow-up period. The Oregon situation graphically portrays "revolving door" justice, with ISP and prison participants moving between the community and incarceration every few months.

Cost comparisons for the ISP and prison group were estimated based on the average correctional supervision costs (e.g., ISP, prison, routine probation) and system costs for processing a new technical violation or a new arrest. Each offender was "billed" for the services received during the follow-up period. The resulting cost estimates suggest that ISP costs are about 75 percent of the costs of sending offenders to prison, not a great cost savings.

IMPLICATIONS

The Marion County experience documents a number of important lessons regarding implementing a prison-diversion ISP program. Because of the many screening criteria utilized by Marion and other ISP programs that eliminate potential clients, the impact of such programs on prison crowding may be limited. Strict enforcement of ISP conditions can lead to a situation in which the community alternative actually exacerbates prison crowding, if poorly performing offenders are sent back to prison for failure to abide by ISP conditions.

In jurisdictions where offenders serve very short terms, the longer ISP program may actually be perceived as more punitive than prison. In Marion, 8 of the 36 offenders who were deemed eligible for ISP rejected the possibility that random assignment finally would place them in ISP. They chose instead a certain term of imprisonment, perhaps perceived as a less onerous sentence.

The small sample size and the unique setting in which the current study took place make our conclusions tentative. It is clear, however, that officials in Marion County deserve considerable credit for choosing to design and attempting to implement a true prison-diversion ISP. In doing so, they participated in a dramatic correctional experiment.

ACKNOWLEDGMENTS

This study has benefited from the contributions of many people and organizations. Our foremost appreciation goes to Billy Wasson, Director of Marion County Community Corrections, and his staff, most notably Jean Hill, Roy Flint, Mike Wilkerson, Julie Fullerton, and Rick McKenna. In addition, Douglas Holien and Audrey Bakke, formerly at the National Council of Crime and Delinquency, provided technical assistance for the ISP project; Carol Shapiro and Todd Clear of Rutgers University provided ISP staff training. Brian Stecher of RAND reviewed this Note and made insightful suggestions concerning the analysis, presentation, and conclusions.

We are grateful to the Bureau of Justice Assistance (BJA) and the National Institute of Justice (NIJ) for their commitment to understanding the impacts of criminal sanctions and their support of this research. We are particularly indebted to Nicholas Demos and Kim Rendelson of BJA, and James K. Stewart and Winifred L. Reed of NIJ.

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I. INTRODUCTION

As prison crowding worsens, the pressure to divert nondangerous offenders to community-based alternatives has increased. Since it is generally agreed that the public is in no mood to coddle criminals, such alternatives must be tough and punitive and not compromise public safety. Intensive supervision programs (ISP) are seen by many as meeting those criteria. ISP can be used to enhance the supervision received by high-risk probationers, or as an alternative to incarceration for prison-bound offenders.

While ISP programs differ considerably across jurisdictions, most require offenders to participate in a highly structured, rigorous form of community supervision. The supervision generally involves frequent contacts with officials, surveillance, monitored curfew, extensive drug testing, and employment (including job training and employment searches). Offenders are also usually required to pay victim restitution and part of the cost of their supervision.

These programs seem to satisfy two goals that have long appeared mutually exclusive: reducing prison populations (and budgets), while punishing offenders in a manner that does not trivialize their crimes. The enthusiasm for ISP has become so pervasive in the past decade¹ that by 1990, such programs existed in every state in the federal prison system (Morris and Tonry, 1990).

Most people seem to agree that a primary goal of ISP programs is to reduce prison crowding. Yet, the evidence to date suggests that while such programs continue to proliferate, they have not substantially reduced prison crowding, and in fact, very few true *prison-diversion* ISP programs (where prison-bound offenders are diverted) have been implemented. The vast majority of ISP programs have been *probation enhancement*, where high-risk probationers are supervised more closely.² And, even in those cases where the ISP

¹The ISP concept is not new to corrections; dozens of ISP programs were developed in the mid-1970s, primarily with funds from the Law Enforcement Assistance Administration (LEAA). Early studies of these ISP programs found no evidence that ISP caseloads led to more effective supervision for adults (Banks et al., 1977), but ISPs are being reinstituted because of prison crowding. Also, these "second generation" ISP programs focus primarily on surveillance and control, whereas the earlier programs were designed to rehabilitate. Byrne, Lurigio, and Baird (1989) summarize the motives and results of these "new" intensive supervision programs.

²Recent reviews of the newer ISP programs have been conducted by Petersilia (1987), Byrne, Lurigio, and Baird (1989), and Tonry and Will (1988).

program's intent was to divert offenders from entering prison's "front-door," later analysis often revealed that many of the participants were not truly prison-bound. Diverting prisoners to ISP programs is much more difficult, since these offenders are presumed more serious, and thus more likely to elicit resistance from the community. Once diverted, they become a more difficult population to manage and have a higher expected recidivism rate (see Petersilia, 1987, for full discussion).

Georgia, New Jersey, Illinois, and New York have each attempted to implement true prison-diversion ISP programs in the recent past.³ But the programs have had difficulties assuring that participants were really prison-bound. In Georgia, for example, judges were permitted to directly sentence offenders to the ISP program, being instructed to do so only for offenders who would have been imprisoned had they not been sentenced to intensive supervision. Billie Erwin, the primary Georgia evaluator, notes that half of the ISP participants in Georgia got there by direct sentence and half by amended sentence (Erwin, 1987). Thus, it appears that judges were using (more severe) ISP sanctions to enhance the supervision of offenders who might otherwise have been granted (less severe) routine probation (i.e., net widening).

Evaluators of a New York prison-diversion ISP program, who concluded that New York judges were *not* using ISP as an alternative to incarceration, noted the frequently heard remark that ISP is "only doing what probation ought to be doing" (Association of the Bar of the City of New York, 1986:16). Thomson, in a preliminary report on an evaluation of Illinois' prison-diversion ISP program, which requires judges to certify that offenders sentenced to ISP would otherwise have been imprisoned, notes that ISP in that state was used principally for those who would otherwise be sentenced to ordinary probation (Thomson, 1987).

New Jersey has developed perhaps the best-known prison-diversion ISP program. While it has procedures in place for selecting ISP participants from the prison population (since one must actually be in prison before applying to the ISP resentencing panel), observers have questioned whether it too has failed to divert a truly prison-bound population. Clear, Flynn, and Shapiro (1987:37) suggest that there is a growing concern that some judges are "backdoor" cases into ISP by sentencing borderline offenders to prison while announcing they will "welcome an application for intensive supervision."

³For reviews, see Erwin (1987), Pearson (1988), Thomson (1987), and Association of the Bar of the City of New York (1986).

Even if such sentencing modifications occur infrequently, it creates difficulties from a research standpoint. Because the guidelines for acceptance into the program are so stringent (less than one-sixth of the prisoners who apply for New Jersey ISP are selected), those who finally make it into the program are distinctly different (lower risk) from the higher-risk prisoners left behind, thus it is impossible to identify a truly matched comparison group to which the effectiveness of ISP can be assessed. When Pearson (1988) reports that about 10 percent of ISP participants were arrested for a new crime during a one-year follow-up, one is unable to assess the extent to which the recidivism rates were related to the ISP program or simply the result of only low-risk offenders being allowed to participate in ISP. Similarly, because the study populations differ from each other, it is impossible to compare the costs associated with ISP versus imprisonment.

In sum, prior research and practical experience with ISP programs suggest:

- While the primary stated goal of most ISP programs is to relieve prison crowding, very few true prison-diversion ISP programs have been implemented.
- Even where such programs do exist, procedures are such that one is unsure whether truly prison-bound offenders are participating.
- In the programs where procedures are in place to assure that only prisoners participate, no true experimental comparisons using random assignment are being conducted, thus prohibiting a credible assessment of the program's effects on costs and public safety.

In 1986, Marion County, Oregon, attempted to improve upon this situation by implementing a true prison-diversion ISP program, which incorporated a randomized field experiment to permit a valid comparison of ISP versus prison costs and effects.⁴ Officials in Marion County deserve considerable credit for choosing to design and implement a strict prison-diversion ISP program where eligible offenders were randomly assigned to ISP or prison. In doing so, they participated in a dramatic correctional experiment. It has long been assumed that the system (and the public) would not accept random assignment of offenders to prison or community supervision. Such experimental treatment was supposed to raise not

⁴Marion County was awarded a grant from the Bureau of Justice Assistance (BJA) for this purpose. The grant was part of BJA's nationwide Intensive Supervision Demonstration Project. BJA is an agency within the U.S. Department of Justice, and one of its functions is to provide financial support to local criminal justice agencies that wish to implement new practices.

only issues of public safety, but legal and ethical questions as well. With respect to legality, it was argued that offenders' legal rights might be violated by sending them to prison when they "merited" probation. Justice would also not be served if offenders who deserved prison sentences wound up on probation. It was argued that randomly sending people to the community who were really prison material was neither ethical nor responsible.

Marion officials were willing to test these assumptions, and the research community is indebted to them for demonstrating that the system and the public will accept properly structured—and explained—experiments. Perhaps most important, they agreed to identify a subset of prison-bound offenders and allow a neutral third-party (i.e., The RAND Corporation) to randomly assign half to the ISP program and half to Oregon State Prison. This procedure assures that the two sentenced populations were similar prior to the imposition of the ISP or prison term. Consequently, the experiment should have permitted us to determine two things: first, what kinds of prisoners policymakers deem equally suitable for prison and intensive community-based supervision; second, how relatively effective are ISP and prison as sanctions for serious nonviolent offenders. As far as we know, this is the first research project to randomly assign eligible offenders to prison or probation sentences. Thus, it provided the first opportunity to test ISP as a true prison-diversion program.

Recognizing the importance of this effort, the National Institute of Justice (NIJ) awarded a grant to The RAND Corporation to assess the implementation and effects of the ISP program. The RAND evaluation was designed to answer the following questions:

1. What are the difficulties encountered in implementing an ISP program as an alternative for prison offenders?
2. Is it possible to implement an ISP as a true experiment, using random assignment? What are some of the practical problems that rise in the course of implementing such an experiment?
3. How did participating in the ISP program affect the offenders' future criminality?
4. How do the costs of ISP compare with those of imprisonment?
5. What are the characteristics of prison-bound offenders that make them suitable for ISP diversion?

Unfortunately, because of implementation difficulties, the experiment did not permit us to answer most of those questions definitively, but it does allow us to address them on a more informed basis. What happened in the Marion County experiment provides some highly instructive and valuable lessons that will be vital for future experiments, for research and analysis, and for thinking about the future of ISPs.

This study contains the results of the RAND evaluation. The purposes of this Note are to discuss the lessons learned and to examine their implications for prison diversion programs and for ISPs in general.

Section II describes Marion County, with a particular focus on the aspects of its history that influenced the ISP experiment. We then describe the details of the experiment, including a description of the ISP program itself as well as our methodology for assessing its effectiveness. Section III presents the results, including both the difficulties encountered in implementing this experiment, as well as the recidivism rates of offenders who participated. In the final section, we discuss our thoughts on how these results should be interpreted and what the next appropriate steps might be for the future of ISP.

II. CHARACTERISTICS OF THE SITE AND THE ISP PROGRAM

To understand fully what happened in this experiment, we need to consider characteristics of the site and the ISP program. Some of the problems encountered by the experiment are more directly related than others to site- and program-specific features. However, all of the problems and outcomes have some relation to these features.

MARION COUNTY, OREGON

Marion is a small county in central Oregon, with a population of about 250,000. It contains both the state capital, Salem, and four of the state's correctional facilities.

Like other jurisdictions, Marion County has seen its commitments to prison increase considerably: In 1977 it committed fewer than 100 offenders to state prisons; by 1988, the number was 215. This increase reflects the overall increase in the Oregon prison population, which grew from 2,468 in 1976 to 3,481 in 1986—a growth rate of over 40 percent. Because of depressed economic conditions and keen competition for scarce resources, prison building has not kept up with commitments. Thus, the prison population is now 40 percent over capacity.

This crowding problem has been complicated by the fact that an increasing number of felony convictions have been for sex offenses, robbery, and homicide. Such offenders are imprisoned for long sentences. Consequently, prison space available for less serious offenders has diminished, and most felons convicted of nonviolent crimes can expect to serve very little of their sentences.

The result has been a classic example of "revolving door" justice. An Associated Press story released during the course of the experiment (7/10/88) quoted the U.S. Attorney for Oregon as saying: "Oregon is looked at as a good place to commit crime. . . . If we know that for a five-year felony a person is only going to serve 42 days, what kind of a deterrent is that?" Awareness of this de facto "leniency" affected both the officials and the offenders in the Marion experiment.

The state and the county have been trying desperately to address this problem. In 1977, the state passed the Community Corrections Act, enabling counties to establish community corrections agencies. One intention of this act was to reduce the flow of incoming prison inmates by encouraging counties to provide suitable alternatives for less serious offenders. Marion County was among the first to do this, establishing the Marion County Community Corrections (MCCC) agency in the same year.

From the beginning, the MCCC focused on finding methods of appropriately supervising felons at the local level, thus saving prison beds. It opened a residential center (later called a Restitution Center); it merged state probation and parole staff into county employment; and it began looking for ways to hold down its Class C (nonviolent) commitments to state prison. Besides the effect on prison commitments, Marion had a fiscal incentive to find local alternatives for these felons: Each Class C commitment costs the county \$3,000 in subsidy funds.

Although the county aimed at reducing Class C commitments, they increased steadily. Between 1984 and 1985, for example, they increased 50 percent. Moreover, 80 percent of the Class C commitments were for new crimes, not technical violations of probation or parole. Yet, putting these people in prison seemed like an empty exercise. An MCCC study showed that most Class C offenders were released from prison within six to nine months of commitment. The prison system too was responding to crowding by using a variety of special parole release mechanisms, such as work furlough programs. Consequently, time served by less serious offenders kept going down as terms for the more serious increased. Data compiled by MCCC shows that the average prison term served for Class C Felons in 1977 was 13 months but had decreased to 8 months by 1983. Once released, these offenders are under the jurisdiction of the MCCC, much as though they were on probation.

Prosecutors and other key actors in Marion were becoming increasingly frustrated by the lack of suitable punishments for "intermediate offenders."¹ In 1986, the MCCC rewrote its mission statement, focusing heavily on risk management and deemphasizing activities that were unrelated to risk control. It adopted procedures suggested by the "limited risk control model" proposed by Vincent O'Leary and Todd Clear (1984). The guiding principle of this model is to incarcerate only as a last resort and only those who demonstrate a threat to public safety. Using funds from BJA, it also developed a needs-and-risk-assessment instrument and began using it to classify offenders for various forms of supervision.²

Despite these efforts, the county soon faced some hard facts: Federal court order restricted use of the county jail to pretrial detainees; the Restitution Center could house only about 50 nondisruptive inmates; and probation caseloads consequently shot up to an 80:1

¹ For a complete review of these developments in Marion County, see Funke (1985) and Harlow (1986).

² This risk-assessment tool is a locally validated version of the Wisconsin risk/needs instrument and the Oregon sentencing matrix.

ratio. In response, the MCCC began to design an ISP as an alternative for Class C felons. It was hoped that judges would use this option rather than committing them to state prison.

At that point, the MCCC applied to participate in the BJA Intensive Supervision Demonstration Project. The primary intent of the demonstration project was to determine the effects of participation in an ISP program on the subsequent behavior of offenders. Marion County was chosen, along with four other counties,³ to participate in the ISP demonstration project. In December 1986, BJA awarded Marion County an 18-month grant of approximately \$145,000 to implement an ISP program.

MARION COUNTY'S ISP

While ISP programs serve as both prison-diversion and probation-enhancement alternatives, the exact nature of individual programs differ widely. The only common characteristic of ISP programs in practice is that they are more "intense" than routine community supervision. Most ISP programs have some combination of multiple weekly contacts of the offender with a supervising officer, unscheduled drug-testing, strict enforcement of probation conditions, and a requirement that the probationer perform community service. Caseloads of supervising officers typically range from 30 to 50 probationers.

In the request for proposals to participate in the project, BJA stipulated that the sites had to agree to:

- Design and implement an ISP program, following the general model developed in Georgia. The basic components to be included in the experimental programs were small caseloads, employment training, community service work, routine and unscheduled alcohol and drug testing, and curfews.⁴
- Participate in several training conferences and technical assistance activities, which would be provided by outside experts.
- Participate in an independent evaluation that would require them to maintain core data elements and to cooperate with the evaluator in the random assignment of cases.

³The other sites were: Contra Costa, California; Ventura, California; Los Angeles, California; and Milwaukee, Wisconsin.

⁴Complete descriptions of Georgia's ISP program can be found in Erwin (1987), Petersilia (1987), and Byrne et al. (1989).

The exact eligibility requirements for offenders were left primarily up to the sites. The only restrictions were that offenders be adults convicted of a nonviolent offense.

After a competitive review process, The RAND Corporation was selected by BJA to evaluate the ISP demonstration program. However, the BJA funds were insufficient for conducting a complete evaluation, and as such, NIJ awarded a grant to RAND enabling an expanded evaluation. RAND researchers were involved in program design, staff training, data collection, and project implementation.

BJA's intent was to give Marion County, as well as the other participating sites, a great deal of latitude in designing the particulars of their ISP program. In the first few months of the project, MCCC staff involved local decisionmakers in the program's design. They also began hiring and training ISP project staff, developing their eligibility criteria, establishing the ISP Review Team, and gaining support for the program within the system and in the community. The first project progress report noted that "the project appears to be gaining significant support from the major users of the system."

The MCCC staff devoted a great deal of effort to soliciting the cooperation of key policymakers for the ISP program. The prosecutor, judge, and a police representative were brought in early in the process to help design the selection criteria and approve of the ISP program procedures.

The ISP Selection and Screening Process

The original ISP selection and screening process consisted of six steps developed by Marion County.

In Step One, the review team made up of MCCC staff and a representative from the prosecutor's office reviewed all adult offenders after conviction, but before sentencing. An offender became part of an initial eligibility pool if he/she met the following criteria:

- New criminal conviction for a nonviolent felony offense
- Had no criminal history of violence
- Resided in Marion County
- Presentence report recommended state prison
- Would be sentenced to the Oregon Department of Corrections if the ISP program did not exist

For reasons we discuss below, these original criteria were amended three months after the ISP project's initiation. The original intention was to make this a prison diversion program *only for people who had new criminal convictions*. However, this criterion was expanded to include offenders who had committed a technical violation of probation or parole—violations not chargeable as criminal offenses—and who would otherwise have been sent to the Oregon Department of Corrections. These probation/parole violators also had to meet the other criteria outlined in Step One.

With this expansion, there were three ways that an offender could meet the Step One criteria. The first way was when an offender had a new nonviolent felony conviction and met all of the other ISP eligibility criteria (referred to as a “front-end” case with full review). During the course of the ISP experiment, only six participants were front-end cases. The second way was through a recommendation by the MCCC that probation be revoked either for a technical or new crime, and the offender met all other eligibility criteria (referred to as a “back-end” probation revocation case with full review). Twenty of the study participants were back-end probation cases. The third way was when a parolee had a technical violation, met the criteria, and was revoked (“back-end” parole revocation case with full review). Two of the participants were back-end parole revocations.

In Step Two, the MCCC staff reviewed offenders meeting Step One criteria. Those who were unanimously recommended as initial eligible offenders were referred to the ISP Review Team.

In Step Three, each offender judged initially eligible by the MCCC staff was subsequently reviewed by the ISP Review Team, who reviewed the offender's crime and criminal record as well as other eligibility criteria. The ISP Review Team consisted of a representative of the District Attorney's office, the supervisor of the ISP unit, and an ISP officer. As was true for the MCCC review, an offender had to have a unanimous recommendation from the ISP Review Team for continued eligibility.

In Step Four, eligible offenders were asked if they agreed to participate in the experiment, after having had the ISP rules explained to them. Offenders were also told that they might not actually receive ISP placement, due to the randomized assignment procedures. Only persons indicating a willingness to become involved proceeded to the next step. At this point, eight offenders declined to participate in the random assignment.⁵

⁵Legally, we were probably not required to have the offender's permission, since the judge had the discretion to impose either a prison or probation term. However, the local judges imposed the informed consent requirement, saying they only wanted to divert from prison those who were willing to participate in the ISP.

In Step Five, the remaining eligible cases proceeded to court for sentencing, carrying their original "recommended-for-prison" sentencing in the presentence investigation (PSI) report. If the offender was sentenced to prison—and all of those whose PSI included the prison recommendation were—the final eligibility criterion would be met.

In Step Six, the probation officer (who was in court at the time of sentencing) then placed a call to RAND to get the random assignment to prison or ISP. When an offender was randomly assigned to ISP, the case went immediately back to court and the judge rescinded the original prison sentence. This was accomplished by the judge stating that, after reconsidering the case, he/she had decided to sentence the offender to probation on the condition that the offender participate in the ISP program and adhere to its conditions. The court clerk then changed the order to reflect the ISP sentence; the judge signed it; and the offender was ordered to report to the ISP supervisor. The time period between original sentencing, random assignment, and the "resentencing" was usually completed within one to two hours.

Figure 1 displays this process.

Eligibility Steps	Number of Offenders at Each Step	
1. MCCC Review Team selects all adults facing sentence for nonviolent offense, who meet other criteria, and whose PSI recommends prison.	160	
2. MCCC Review Team selects initial eligibles and refers them to ISP Review Team.	58	
3. ISP Review Team reviews initial eligibles for continued eligibility.	36	
4. Eligible offenders agree to participate in ISP experiment.	28	
5. Court sentences offenders to prison.	28	
6. RAND randomly selects half for ISP, half for prison. (Judge rescinds prison sentence for ISP cases.)	ISP	Prison
	14	14

Fig. 1—Procedures for being assigned to the ISP experiment

Structure and Operation of the ISP Program

The following description of the originally designed ISP program is based on the ISP brochure published by the MCCC. It does not reflect, on all dimensions, what actually happened in the program. We discuss the differences in Sec. III. As the brochure described it, the ISP was to be structured and to operate as follows.

Offenders assigned to the ISP program were supervised by a team consisting of one probation officer and one surveillance officer. The probation officer was primarily responsible for screening eligible clients for the ISP Review Team, working with the courts in the sentencing process, talking to potential clients in jail, calling RAND for the random assignments, coding the data collection forms, writing court reports, and making program referrals. The surveillance officer's main responsibilities included monitoring case plan compliance, providing client field contacts, checking law enforcement bulletins and outstanding warrants, and investigating violations. The maximum caseload for the team was to be 30 people.

Participants in the ISP were required to comply with a number of specific conditions, including the following:

- During the first three months, five face-to-face and two collateral contacts per week with the ISP officer; in the second three months, two face-to-face and one collateral contact required
- Spending five days a week working, looking for a job, or performing community service
- Paying victim restitution and a monthly supervision fee (monthly fees average \$20-\$30)
- Living in a location approved by the ISP team
- Remaining at home except to go to work, performing community service, or participating in specific activities allowed by the supervision officers
- During the first three months, observing a 10:00 P.M. to 6:00 A.M. curfew; following that, the curfew discretionary with the ISP officer
- Submitting to drug and alcohol tests when required by the ISP team
- Performing at least 10 hours of community service each week
- Meeting any other condition imposed by the court or parole board

Typically, participants were expected to be on ISP supervision for a minimum of six months. Upon successfully completing the first six months, the client was transferred to regular probation supervision if the ISP supervisor recommended it. If a person failed to comply with the conditions of supervision, he/she might be retained in the program for as long as necessary to ensure compliance or might be referred back to the sentencing court for incarceration.

Persons assigned to the prison (control group) proceeded to the Oregon Department of Corrections to serve an indeterminate sentence. After an initial assessment, the offender was sent to one of the state's six correctional institutions. The actual length of prison term served was determined by the the Oregon Board of Parole, the paroling authority for adult offenders. At release, the Community Services Division of the Department of Corrections provided parole services.

DATA COLLECTION AND RANDOMIZATION PROCEDURES

RAND's role in the evaluation was a collaborative one lasting throughout the course of the ISP experiment. The major role played by RAND staff was as the evaluator of the program. To this end, RAND staff were responsible for the development of the various data collection instruments, training Marion staff to collect the needed information;⁶ assigning the eligible offenders to ISP or prison; and conducting the quantitative and qualitative assessment of the experiment's impact.

The three primary data sources for this evaluation were:

1. Official record data collected at the individual level
2. Contextual information regarding program implementation
3. Criminal justice cost data

⁶Because the evaluation had limited resources, BJA decided at the outset that the sites would have to collect the data themselves. Each site was required to set aside 5 to 10 percent of their support funds to hire someone responsible for collecting the data that the evaluation required. The difficulties this caused for the evaluation effort are discussed fully in Petersilia (1989).

Official Record Data for Individual Offenders

For each offender, Marion staff were required to complete three data collection forms, each of which took about one hour per offender to complete.

The Background Assessment form was completed shortly after program assignment. This form was designed to provide a description of the offenders involved in the experiment. It includes prior record information, demographics, and current offense information. Marion staff relied heavily on the offender's presentence investigation report for this information.

The Six-Month Review was completed six months after program assignment. Similarly, the Twelve-Month Review, covering the period from the seventh to the twelfth month after program assignment, was completed one year after assignment. The review forms were designed to document the nature and type of services received during the program, as well as each individual's social adjustment and recidivism. Information for the forms was taken primarily from the chronological notes ("chronos") maintained in the probation officer's folder.⁷ As these forms were completed on site, they were mailed to RAND where RAND staff then edited and entered them into a database to create an analysis file.

It is important to note that the one-year follow-up period was defined individually for each study participant, beginning on the day of assignment to the ISP or to prison. Because offenders were assigned to the evaluation over the period from March 1987 through May 1988, data collection was an ongoing task from March 1987 through mid-1989. Figure 2 presents the time frame for the full study assignment, and follow-up data collection.

Status (Street-Time) Calendar

A severe deficiency in prior ISP research is the failure to track the time that offenders are actually "on the streets" rather than in custody during the follow-up period. A record of the free and in-custody days for each offender is critical for computing valid contact rates and for assessing program costs. To compute monthly contact rates, it is essential to know the number of months the offender was actually on ISP. And to accurately measure program costs, it is necessary to know how many days of each type of sanction (e.g., ISP, jail) the offender underwent during the follow-up period.

⁷Initially, officers had been instructed to complete a reassessment for each offender using the NIC risk-needs instrument at 6 and 12 months after assignment. This plan was abandoned about six months into the project when it was deemed to be too time-consuming for staff; in addition, the information, according to their judgments, was unreliable.

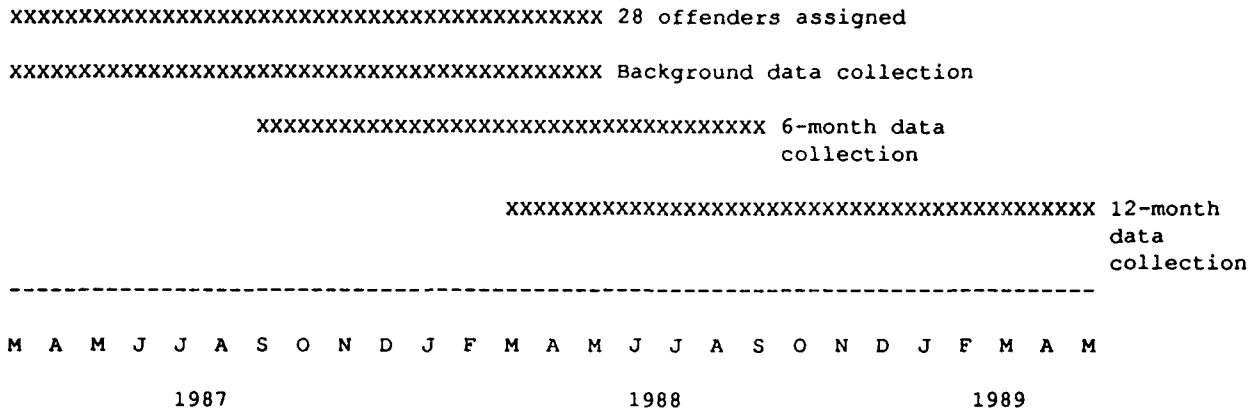


Fig. 2—Time frame for case assignment and data collection

To record time-at-risk information, the data collection forms included a “status calendar,” which was completed at the end of six months and at the end of one year. The calendar included the dates each offender was placed on and removed from ISP, routine probation, as well as the dates of entry into and release from jail or prison. The calendars were filled out by Marion staff using information from the offenders’ probation files.

Contextual Information

Information on the Marion County environment was also collected. Marion staff forwarded to RAND all memoranda, policy manuals, and quarterly progress reports as well as notes from key ISP staff meetings. In addition, the RAND research staff visited Marion on several field trips to observe the program and discuss implementation issues.

Cost Data

To provide data for making cost comparisons between ISP and prison, we mailed a questionnaire to Marion County officials asking them to estimate the daily cost of the following correctional sanctions:

- Community Sanctions: regular probation/parole, intensive probation, electronic-monitored probation, residential centers
- Incarceration: Jail, prison, halfway house, and work furlough

To assess the costs of ISP versus prison, each offender was then "billed" for each service used during the one-year follow-up period, based on information recorded on his or her status calendar.⁸

Achieving Randomization

As noted previously, under the general guidelines provided by BJA, Marion County developed its own ISP eligibility criteria and was responsible for determining whether offenders met those criteria. Once an offender had progressed through eligibility steps 1-5 outlined in Fig. 1 above, Marion staff called RAND for the assignment to either ISP or prison. RAND staff consulted a predetermined random list of assignments to ISP or prison. The eligible offender was given the first available assignment.⁹ With this procedure, the site maintained total control over offender eligibility, leaving control over actual placement to a neutral third party. Marion staff then implemented the random assignment, the experimental cases proceeded to the ISP, and the controls went to the Oregon Department of Corrections.

⁸These dollar estimates were for fiscal year 1988/1989 and were not adjusted for 1990 dollars.

⁹In order to help the site control the flow of cases assigned to either condition, half of the offenders referred to RAND on a given call would be assigned to ISP and the other half to prison. This provided the site with the ability to know how to manage their caseload without being able to determine whether a particular individual would be assigned to either ISP or prison.

III. THE DIFFICULTIES OF IMPLEMENTING A PRISON-DIVERSION ISP

At the end of 18 months, the Marion County ISP fell far short of expectations both as an alternative sanction and a research experiment. From the corrections standpoint, the program's high revocation rate suggested that this ISP program was unequal to the task of handling such serious offenders in the community. From the research standpoint, several things combined to preclude definitive analysis of the experiment. When the experiment ended in 1988, the MCCC was committed to continuing the ISP, but not as a prison diversion program. It is now (what most of the other BJA demonstration sites' programs were) an enhanced probation/parole program.¹ Nevertheless, the experiment provides some very provocative insights into the problems that ISPs face and the implications for their future. In this section, we discuss why the ISP program failed to achieve its goals. In Sec. IV, we consider the causes and implications of the problems this ISP program encountered.

HOW THINGS TURNED OUT

Before analyzing the problems that arose, let us simply describe the events in narrative form.

The "Numbers Problem"

Before the experiment, MCCC officials had estimated that 75 to 90 individuals would be placed on the ISP program. As it turned out, the MCCC Review Team considered 160 candidates over the 18 months. However, they ruled out 102 of those (leaving 58). In its turn, the ISP Review Team pared the number of eligibles down to 36. Then, as something of a surprise, over 20 percent ($n = 8$) of the remaining eligible offenders refused to participate in the ISP. They chose prison instead! Only 24 of the remaining 28 were in the program long enough that we could utilize 6- and 12-month follow-up data within the time constraint imposed by our evaluation. For research purposes, this meant that we had only 24

¹In February 1988, Marion County Corrections obtained approval of a state grant application made under TASC (Treatment Alternatives to Street Crime) program guidelines. The project ties intensive supervision to substance abuse treatment and builds on the agency's experience with ISP. Marion County funded the ISP team staff for an additional year, while the ISP/TASC project was underway. The random selection process was eliminated along with involvement of the MCCC Review Team. Referrals to the ISP/TASC are made by line staff with the agreement of their supervisors. This project will be reviewed in one year to determine the future of ISP—in any form—in Marion.

participants to study: 12 in the ISP and 12 in prison. It is this group of 24 offenders on which subsequent analyses in this report focus.

Marion County was formally awarded the BJA grant in December 1986; however, the first case was not assigned until March 1987. Cases continued to be assigned through May 1988. From the beginning, it was apparent that the ISP was having trouble getting eligible candidates. Every ISP progress report mentions the "continuing difficulty of locating cases" and "trying to identify other suitable offenders." When no cases had been assigned to the ISP officers after the first month, the supervisors saw that they could not let them sit idle while other agency staff were grossly overworked. Thus, they assigned ten "training" cases to the ISP early in 1987. These cases were not part of the experiment, but the ISP continued to have training cases throughout its life.

Changing the Criteria

In an attempt to increase the number of eligibles, the criteria were changed three months after the BJA grant was awarded, as described in Sec. II. After this revision, probationers and parolees who had technical revocations and were facing prison commitment also were considered—as long as they met all the other criteria. Under the original criteria, the program would have had only six participants. The rest came in under this new rubric, 20 back-end probationers and 2 back-end parolees. However, this could hardly be considered swelling the ranks.

Who Participated in Marion's ISP Experiment?

Because offenders were randomly assigned to ISP or prison, we expected little difference in background characteristics between the two groups. And, as it turned out, they were quite similar.² The profile of the combined ISP/prison participants was as follows:

Percent male: 87
Percent white: 67
Average age at current conviction: 27 years
Average age at first arrest: 16 years
Average number of prior felony convictions: 4
Average number of prior probation terms: 3
Average number of prior jail terms: 1

²Statistical tests for differences in background characteristics between participants revealed only two: Prisoners had a greater number of prior probation and prior jail sentences than ISP offenders.

Percent having prior prison terms: 67
Percent currently on probation/parole: 83
Percent with "high" drug treatment needs: 71³
Percent with "high" alcohol treatment needs: 29

Conviction Offense:⁴

- 8 percent convicted of assault
- 21 percent convicted of burglary
- 29 percent convicted of theft/fraud
- 4 percent drug sale/possession
- 38 percent other (DUI, criminal mischief)

This profile suggests that participants in this experiment were indeed repetitive, serious criminals: They averaged 16 years of age at their first arrest, and 18 at their first conviction. On average, they had 15 prior arrests, 4 prior felony convictions, and 3 prior probation terms. Sixty-seven percent of them had served a prior prison term, and 83 percent were on probation or parole at the time of their current offense. These ISP participants appear more seriously criminal than participants in other evaluated ISP programs.⁵

The Kinds of Sentences Received

For those offenders randomly selected to participate in the ISP program, the judge rescinded their prison sentence and subsequently sentenced them formally to probation, on the condition that they participate in the ISP program. The modal probation sentence for these offenders was five years. Five of the ISP offenders were also sentenced to some time (ranging from one to six months) in the Restitution Center (the equivalent of jail).

Nine of the 12 ISP offenders were sentenced to serve some community service hours, the most common requirement being 10 hours. About half of the ISP offenders were required to pay restitution, ranging from \$140 to \$8,000. Eight of the 12 ISP offenders were required to pay fines, ranging from \$100 to \$500.

The sentences for the prisoners were fairly straightforward. The modal sentence for prisoners was five years, the same length as the probation sentence. Only one prisoner was required to pay restitution, and none was required to pay fines.

³"High" drug and alcohol treatment needs were operationally defined as "frequent abuse causing serious disruption, in need of treatment." These assessments were usually included in the presentence investigation report.

⁴The most serious conviction offense was selected for this table.

⁵For example, 5 to 20 percent of the participants in a California probation-enhancement ISP program had served a prior prison term (see Petersilia and Turner, 1990).

The Nature of Supervision In the ISP

In Sec. II, we described the supervision conditions listed as required in the ISP brochure. The actual services received by ISP participants are contained in Table 1.⁶

As for the requirement that offenders spend "five days a week working, looking for a job, or performing community service," only four of the ISP group had any paid employment during the six months. Only one had any training (which might indicate an attempt to get a job). And the average of 14 hours of community service performed over the entire first six months is far below the average that 10 service hours a week would have produced. Only one person paid any restitution during the six months.

As indicated earlier, the follow-up review recorded by month each supervision and surveillance contact between probation officer and client. In order to calculate rates in Table 1, we divided the total number of contacts of a given type during the six months by the number of days the offenders were on ISP during the six months. The resulting daily rate was then converted into a monthly rate—or the average number of contacts per month.

In terms of face-to-face and collateral contacts, the ISP program in Marion delivered close to the planned ISP levels. The MCCC brochure indicates that during the first three months, offenders will have five face-to-face and two collateral contacts per week with the ISP officer; and in the second three months, two face-to-face and one collateral contact. Averaged over six months we would expect to see three-and-a-half face-to-face contacts per week with an average of one-and-a-half collateral contacts per week. Table 1 shows that over the six-month period, ISP offenders averaged about three face-to-face contacts per week and just over two collateral (phone contacts and "other" monitoring) contacts per week. Other surveillance activities were not performed at as intense rates. For example, checks of criminal records were performed about once a month; drug tests about every other week and no alcohol tests were performed on the ISP offenders. In general, the level of surveillance delivered was rather close to that which was planned, as stated in the original ISP materials. In terms of services provided to offenders and offenders' retribution to the community, the picture is not as successful.

⁶Rates presented in Table 1 were based on the 6-month review for the nine ISP offenders who actually spent time in the community under ISP during the first 6 months. Because only three ISP offenders remained active at the end of the 12-month review, no calculations on the second 6 months were performed. Percentages reported in Table 1 are based on all 12 offenders assigned to ISP. It is important to note that due to the small size of the sample, the averages reported are not very stable.

Table 1

SURVEILLANCE AND SERVICES RECEIVED ON ISP
(Means averaged over the first 6 months)

Surveillance	
Frequency of face-to-face contacts/month	
At probation department	6.2
At home	5.2
Other locations	.8
Frequency of phone contacts/month	1.9
Frequency of monitoring checks/month	
Criminal record	1.1
Other (law enforcement employment verification, warrants issued)	7.2
Frequency of alcohol tests/month	0.0
Frequency of drug tests/month	2.2
Services	
Percent performing any community service	67
Average (total) no. hours of community service	14
Percent with any counseling sessions	
Psychological	17
Family/other	25
Drug	17
Percent participating in vocational training	8
Percent with any paid employment	33
Percent with any paid restitution	8

Outcomes for the ISP-Experimental and Prison-Control Groups

Table 2 shows the one-year experience of Marion's ISP program. One year after being assigned to ISP, no offender was left on ISP. Three had successfully completed ISP and been transferred to regular probation. The 12-month column also reflects the short length of stay for ISP offenders who were revoked during the first 6 months. Three offenders who were in prison at 6 months had already been released by the end of the 12 months.⁷ Similarly, only half of the 12 (control group) prisoners remained in prison 6 months after assignment.

⁷One was an escapee.

Table 2
STATUS OF OFFENDERS AT 6 AND 12 MONTHS AFTER
PROGRAM ASSIGNMENT

Status	At 6 Months		At 12 Months	
	ISP (n = 12)	Prison (n = 12)	ISP (n = 12)	Prison (n = 12)
Still in ISP	4	0	0	0
Regular probation	0	0	3	0
Abscond/escape	1	1	2	1
In jail	0	1	0	0
In prison	5	6	2	6
Admin. leave/parole	2	4	5	4
Discharged	0	0	0	1

NOTE: Table entries are actual numbers of offenders.

Recidivism

Enthusiasm for ISP has come about primarily because of its potential to reduce recidivism—that is, the offender's return to crime.

As indicated earlier, for each offender participating in the study, we recorded a variety of recidivism measures ranging from technical violations⁸ to new arrests, convictions, and subsequent incarcerations. Each offender could experience a number of these outcomes during the 12 months after assignment to either prison or ISP. In order to summarize multiple outcomes for a particular offender, we categorized each individual according to the "most serious" recidivism event he or she experienced during the first 6 and 12 months after assignment. For example, if an offender received a technical violation for a drug violation and was also arrested for a violent offense, the violent arrest was considered to be the most serious outcome during the follow-up.

Table 3 presents the most serious outcome for ISP and prison offenders at 6 and 12 months after assignment. Recall that at 6 months, half of the prisoners remained in prison serving their initial term. As we discuss in more detail later, although the prisoners were initially sentenced to prison for an average of five years, the average length of time actually

⁸A technical violation refers to a probationer's failure to abide by the rules and conditions of probation.

spent in prison during the 12 months was approximately 6 months, compared to an average of 4 months in prison for ISP offenders.

The table shows that the failure of the ISP offenders happened fairly early, usually within the first six months. By the end of the first six months, 9 of the 12 ISP offenders had received a technical violation as their most serious outcome. The majority of the technical violations were for drug use as detected through urinalysis and other drug violations. The second most common technical violation was for absconding. Two ISP offenders had been arrested for new offenses—one for possession of narcotics and the other for assault.

As indicated earlier, by 6 months half of the ISP offenders had been sentenced to prison, all for technical violations. By 12 months the picture had not changed very much. Two more ISP offenders were arrested for crimes, one for theft and another for a misdemeanor offense. No new ISP offenders were sentenced to prison during the second 6 months.

In contrast, prisoners in the "most serious outcome" category showed fewer technical violations and more arrests than ISP offenders.⁹ By 12 months, the most serious outcome

Table 3

MOST SERIOUS RECIDIVISM OUTCOME, 6- AND 12-MONTH CUMULATIVE
(Actual numbers of offenders)

Outcome	First 6 Months		12 Months Cumulative	
	ISP (n = 12)	Prison (n = 12)	ISP (n = 12)	Prison (n = 12)
Most serious incident				
No incidents	1	7	1	3
Technical violations only				
Drug-related	2	0	1	1
Other technical	7	2	6	2
New arrest				
"Other" arrest	0	2	1	1
Drug arrest	1	0	1	1
Property arrest	0	0	1	3
Violent arrest	1	1	1	1
Incarceration for new technical/arrest				
Jail	2	1	3	2
Prison	6	1	6	3

⁹By 6 months, six prisoners had been released. By 12 months, all but three prisoners had been released from their initial sentence.

for three of the nine released prisoners was a technical violation; six had been arrested at least once. A separate analysis of the number of arrests generated by each group showed that ISP offenders accounted for 5 arrests; control offenders, 13.

RECIDIVISM, AND TIME SPENT IN PRISON VS. THE COMMUNITY

A point affecting both recidivism and program cost is the fact that, regardless of whether the offender was *initially* sent to ISP or prison, the *actual* time spent incarcerated versus in the free community ("street time") during the 12-month follow-up period did not differ greatly. Figure 3 illustrates the average number of months actually spent by the ISP and prison study groups in prison, ISP, jail, parole, probation, etc. It also shows the average number of arrests and technicals incurred during the 12-month follow-up for each group.

What is interesting about Fig. 3 is that the two groups spent nearly the same time incarcerated during the 12-month follow-up period: Those originally sentenced to ISP spent an average of 4.7 months incarcerated (local incarceration plus prison), and those originally sentenced to prison, spent 6.7 months incarcerated (local incarceration and prison). The

Average imposed probation sentence: 57 months						
ISP n = 12	2.1 mo ISP	1.1 mo local incar	1.3 mo failure to appear	3.6 mo prison	.5 mo resid treat	3.1 mo. parole/ proba- tion

24 offenders assigned between 3/87-1/88						

PRISON n = 12	6.4 mo prison	.3 mo local incar	1.4 mo failure to appear	3.3 mo parole	.1 mo residential treatment	
Average imposed prison term: 60 months						

Fig. 3—Average time spent in various sanctions during 12-month follow-up

Oregon situation graphically portrays “revolving door” justice—with ISP and prison participants simply moving every couple of months between prison and the community.

Table 3 and Fig. 3 further imply that the system in Oregon has yet to find an effective alternative for handling this particular kind of offender. Whatever the explanation, this ISP did not “successfully” divert many offenders from prison. Nor did it take much pressure off the prison system, since over half the experimental group eventually wound up behind bars.

Comparing the Costs for ISP and Prison Groups

Much of the enthusiasm for ISP comes from its presumed cost effectiveness: If persons who would have *truly* served a prison term are diverted to an ISP program, dollars might be saved. The costs per day for imprisonment are much more than the costs per day for an ISP. In most policy discussions, the annual operating costs of prisons (usually cited to be about \$14,000–\$26,000 per year, per offender) is compared with the annual costs of ISP (about \$5,000–\$8,000 per year, per offender). Comparing these two figures fuels the popular notion that ISP is far cheaper than prison.

But such cost comparisons fail to reflect a number of important components. First, the annual operating costs of prisons overlook capital costs, fringe benefits and pensions, and other expenditures required for operating a prison, which if added, more than double the annual costs of prisons (McDonald, 1989).

But ISP is not as inexpensive as commonly assumed either, particularly if one considers the cost of reprocessing the failures. Probationers sometimes commit new crimes while in the community. If ISP results in more arrests, court appearances, and subsequent jail time, the system must bear the reprocessing costs. In that sense, ISP has not saved incarceration costs, but simply postponed them.

Because our study sample would have gone to prison if not for the ISP diversion program, we had an ideal opportunity to study the relative costs of ISP versus prison sanctions.

One goal of this study was to estimate the total criminal justice dollars spent on each offender during the one-year follow-up period, including both corrections and court costs.¹⁰ This was accomplished by:

¹⁰Zedlewski (1987) argues that crimes committed by probationers also entail social costs, such as victims’ losses from missed work and hospital bills, as well as increased fear, which can translate into the purchase of more private security. At present, no adequate method exists for quantifying such social costs, so they are not included here. However, these elements are likely to be substantial.

1. Estimating the costs of each type of local sanction or service used by the study sample
2. Using information from the status calendar and 6- and 12-month reviews, indicating where the offender was (e.g., in prison, on ISP) on each day in the follow-up period, and "billing" each offender for each service used
3. Averaging across all offenders, within the experimental and control programs, to estimate the annual costs of ISP versus prison

As noted earlier, information on the daily costs of supervision and incarceration was collected directly from officials in Marion County.¹¹ The average costs of processing an arrest or a technical violation were taken from Haynes and Larsen (1984).

Table 4 shows the cost components and compares the annual costs of ISP with those of the prison-control program. Table 4 also shows the number of days during the total one-year follow-up period that offenders spent in various corrections programs. The average time ISP-experimental offenders actually spent on ISP averaged 64 days, a little more than two months.

The full costs suggest that ISP costs are about 75 percent of the costs of sending offenders to prison. This reduction in costs is also associated with a reduction in the number of new crime arrests, but an increase in the number of technicals. The cheaper costs are due mostly to the fewer days in prison for the ISP offenders as opposed to the prison-control group.

PROBLEMS WITH THE EXPERIMENT

This brief review of events and outcomes describes most of the major problems the experiment encountered. Basically, we could not meaningfully analyze the ISP's effectiveness as a prison diversion program, nor generalize from the results, due to the small number of offenders in the program. As a prison alternative sanction, the program was beset not only by the inability to divert a significant number of nonviolent felons from prison but by the disappointing recidivism outcomes of ISP participants.

¹¹All of the Oregon sanction costs were provided by David Koch, Management Analyst, Marion County, Department of Corrections.

Table 4

**CALCULATING THE COSTS OF ISP AND PRISON:
12 MONTHS AFTER PROGRAM ASSIGNMENT**

	Daily Cost ^a	Number of Days Used	
		ISP	Prison
Prison	\$66	108	191
ISP	\$9	64	0
Restitution center	\$37	33	10
Parole/admin. supervision/probation	\$2	92	97
Residential treatment center	\$35	15	4
Failure to appear	\$1	38	40
Cost per technical	\$500	2.5	1
Cost per arrest	\$1500	0.5	1
FULL COSTS		\$11,551	\$15,526

^aRounded to the nearest dollar.

Too Few Study Participants

The number of offenders judged eligible for Marion's ISP program was very low. Only six persons during the assignment period were diverted using the initial ISP eligibility criteria (which targeted on *new* criminal convictions); the remainder were being sentenced as a result of a probation or parole revocation.

Safety and cost are two concerns of ISP. Can you treat offenders effectively in the community at lower cost than in prison and without jeopardizing public safety? To get political support, eligibility criteria must accommodate these concerns, especially the latter. In most states, this constraint will severely limit the pool of eligibles.

The Marion program is a good example of this. Key actors there did not believe ISP was an appropriate alternative for violent offenders.¹² As such, the ISP Review Team initially decided that the primary criterion for eligibility was that the offender (a) was convicted of a nonviolent felony offense and (b) had no record of violence. Criteria (a)

¹²The original BJA solicitation guidelines also recommended that the ISP programs bar offenders *convicted* of violent offenses.

effectively limited ISP eligibility to property offenders. Since such offenders make up the majority of prisoners,¹³ an ISP could still take considerable pressure off the prisons, even with that restriction. However, in most states, property offenders who have no history of violence are not likely prison candidates. Thus, (b) limits the pool of prison-bound eligibles considerably.

Faced with the lack of numbers, the MCCC amended the criteria to say that individuals "who have committed a technical violation of probation or parole—one that is not chargeable as a criminal offense—and would otherwise have been sent to the Oregon Corrections division" could be placed on ISP. This amendment was intended to widen the pool of eligibles—and in fact, it made them represent a wider range of prison-bound offenders. On any given day, 20 to 30 percent of new prison admissions are committed for violating the technical conditions of their probation or parole (Jamieson and Flanagan, 1989). However, many such offenders have a history of violence. Thus, it is not surprising that Marion County still found so few eligible offenders.

Despite these constraints, the MCCC did review 160 potential cases. Of these, only 58 apparently met the stated criteria and were forwarded to the ISP Review Team. Why did the Review Team approve only 36?

While we had not planned initially to study the "reject" offenders, we realized that they became an important source of data: What was it about these offenders that made them "unacceptable" for community placement, even though they were eligible on the basic ISP characteristics. Such information might help to avoid designing future programs for which few suitable offenders exist.

Characteristics of Offenders Rejected for Study Participation

We undertook a separate data collection effort, coding background and offense data for the 30 rejected candidates whose cases were screened by the ISP Review Team between April 1987 and the end of May 1988.¹⁴ In addition, we recorded information that was contained in the offenders' ISP files regarding the reasons the ISP team gave for rejecting the case.

¹³According to recent estimates, 70 percent of prison admissions nationwide were convicted of nonviolent offenses (Petersilia and Turner, 1989).

¹⁴In this sample, we included the eight offenders who were approved by the MCCC and ISP team, but who declined to participate in the study.

We compared the background characteristics for the study subjects and the reject cases on a number of variables, including sociodemographics, criminal background, and current offense. There were no statistically significant differences between the cases accepted and rejected in terms of the offender's race, prior criminal record, status at the time of arrest (e.g. parole/probation, free). A greater percentage of rejects, however, was convicted for burglary.

Why did the ISP Review Team reject these cases? When the ISP team rejected a case for the ISP/prison experiment, they were required to write down the specific reasons for doing so. Table 5 shows the reasons given by the Review Team for rejecting an otherwise eligible offender for ISP placement. Recall that in order for an offender to be eligible, he had to receive the *unanimous* approval of all members of the ISP Review Team, which included a representative from the District Attorney's office, the ISP supervisor, and an ISP officer. The most common reason given by the ISP Review Team was that the individual was a "career criminal." The written information was less than informative, and personal interviews with members of both the ISP Review Team and the ISP staff failed to provide much more detailed information. The ISP supervisor summed up what appeared to be a consensus behind rejecting a case because the offender appeared to be a "career criminal." She suggested that

there is no objective criterion behind that judgment. Basically, a career criminal is someone whom the police are tired of arresting and the District Attorney is tired of prosecuting.

Table 5

REASONS FOR OFFENDERS BEING EXCLUDED
FROM ISP EXPERIMENT
(Percentage of all those excluded)

Reason	(n = 30)
Numerous pending charges	7
Judge signed order without ISP review	10
Declined by DA (career criminal)	10
Declined by review committee (career criminal)	47
ISP refused by client	27

When we examined the data further, trying to find some logic in these rejections, we found that 50 percent of those rejected had current burglary convictions—more than double the percent of accepted offenders. In fact, 82 percent of those rejected for being career criminals were convicted of burglary. This rejection of burglars points to a further problem with ISP pools. Burglary is considered a nonviolent felony, and people serving burglary convictions make up approximately 15 percent of the prison population on any given day (Jamieson and Flanagan, 1989). Yet, at least in Marion County, there seems to be a strong reaction against putting burglars into ISP. They may meet the stated criteria, but they are still burglars—with whatever negative connotations that has for the public and system officials.

Given all the stated and de facto restrictions, it is understandable why Marion County had so few participants. In most jurisdictions, a prison-diversion program that excludes violent offenders, convicted burglars, and people with any history of violence has very few candidates left to divert. In fact, some jurisdictions shrink the potential pool even further by excluding people with drug histories. Since about 75 percent of prisoners have drug records, in many states, this restriction would put a prison diversion program out of business before it opened its doors.

As we have said, the small sample sizes hindered our ability to draw strong inferences about the effectiveness of ISP versus prison. Even if we had larger samples, the fact that offenders initially sentenced to prison served such short prison terms hampers our ability to generalize to other jurisdictions in which prisoners serve longer sentences. In Marion County, almost half of the prisoners had been released after serving less than six months on a five-year prison term. This combined with a high return to prison for ISP offenders provides a situation in which both groups are receiving prison and community supervision sanctions within the first six months. Given this situation, our ability to disentangle the separate effects of ISP and prison are compromised. It would be more meaningful to compare other jurisdictions in which prisoners serve longer sentences and offenders on ISP remain in the community for a greater period of time.

A longer follow-up period would have enabled us to gather more long-term estimates of the costs and subsequent offenses committed by offenders while under community supervision and in prison. As we saw in our earlier study comparing prison and probation in California (Petersilia and Turner, 1986), the greatest differences in the relative costs of sanctions occur during the first year, during which prisoners are generally incarcerated for the full term. Allowing a long enough follow-up period to enable all offenders initially sentenced to prison in Marion to return to the community would provide more comprehensive estimates of the relative impact of these sanctions.

ISP Option Rejected by Offenders In Favor of Prison¹⁵

In this study, 8 of the 36 offenders deemed eligible for ISP rejected the possibility that random assignment would place them in ISP. They chose instead a certain term of imprisonment. Why would offenders choose prison over ISP? Although we did not have the opportunity to personally interview individual offenders, Marion officials suggested that the result did not surprise them, and that offenders may have been choosing the perceived less onerous sentence. Experiences in several other states suggest that imprisonment may be losing some of its punitive sting.

The length of prison term for marginal offenders (those most likely targeted for prison diversion programs) has gone down in many states across the country. Prior to the current study in Oregon, Clear and Shapiro (1986) reported that due to prison crowding, the expected time served for a five-year sentence in Oregon is three to four actual months of time. Similar statistics have been reported in California, Texas, and Illinois, where two- to three-year prison terms often translate into less than six months time served. Additionally, prison may not be that feared a sanction, since many of those currently incarcerated have been there before. Recall that nearly 70 percent of the participants in this ISP program had been in prison before. Nationwide, over 60 percent of offenders in prison in 1986 had served a prior prison or jail term (Bureau of Justice Statistics, 1988). Further, some evidence suggests that a prison sentence is not as stigmatizing when an offender returns to the community as it once was. Because job opportunities for lower socioeconomic males in urban areas overall have become increasingly difficult to find, the impact of a prior prison record becomes less salient (Wilson, 1987). Perhaps more interesting, having been in prison evidently has become a status booster, particularly in the inner cities. Staff at the California Youth Authority (CYA) and Department of Corrections (CDC) report that inmates steal the state-issued prison clothing to wear in the community because it lets everyone know they have done hard time.

Contrary to prison, probation is becoming more punitive. Probation has historically been committed to providing rehabilitative services. Probation officers were seen as helpmates to offenders. But as the support for rehabilitation waned, probation was forced to adopt a new mission. That new mission involves tough surveillance and control, as opposed to providing services. As Clear and Hardyman (1990) recently wrote: "The new probation officer is just as likely to bust a felon as encourage him to attend Alcoholics Anonymous."

¹⁵A more extensive discussion of the punitiveness of ISP versus prison is contained in Petersilia (1990).

ISPs in general stipulate an intense array of surveillance and community requirements. In Oregon, the stated contact levels particularly during the first three months are almost daily contact. The ISP program was expected to last two years. In contrast, a prison sentence is followed by routine parole with an average contact of once a month with a parole officer. We speculate that for some offenders, prison was the preferable alternative.

The Marion experience provides several useful lessons on the use of ISP for policymakers. If the results of the Marion experience are generalized, under certain conditions community sanctions have the potential to be as punitive as prison. If they are, then the United States may begin to reduce its reliance on imprisonment as the only suitable sanction for serious offenses. If this occurs, corrections costs could be reduced. On a more short-range level, however, the added requirement of offender agreement to programs may seriously reduce the number of offenders eligible for an intensive community-based program. Oregon's experience suggested that over 20 percent of eligible offenders would opt out.

IV. WHAT THESE RESEARCH AND PROGRAM OUTCOMES SUGGEST

The Marion ISP program did not achieve its goal of effectively diverting 150 offenders from its state prison system. Only 28 persons were identified as final eligibles for ISP during the 18-month experiment, and of those, nearly all were facing revocation for probation/parole violations, not as the result of a new criminal conviction. Further, for those persons randomly placed on ISP, half were sentenced to prison within 6 months of being assigned to ISP, and of those sent to prison, more than half were released within 12 months. Perhaps even more telling, the amount of time spent in the community, as opposed to in prison, did not differ greatly whether the person was *initially assigned to ISP or to prison*. And this was the primary reason why the cost of the ISP sanction was only slightly less than the cost of the prison sanction.

What do these results suggest about the future of ISP as a prison-diversion option? As we said, and would like to reiterate here, these results do not indict ISP as a prison diversion option. The small sample size and the unique setting in which the experiment took place make our conclusions far from definitive. Nonetheless, as jurisdictions struggle to assess the applicability of ISP for easing prison crowding, this experiment does serve to highlight the difficulties involved.

CONDITIONS TO CONSIDER

Jurisdictions interested in ISPs need to consider:

- How must the program be structured to make it politically tenable?

What kinds of constraints are imposed by the political, economic, and demographic context? These constraints will dictate the eligibility criteria, the structural features of the program, and the conditions for remaining in the program.

It appears that ISP programs have enjoyed widespread support partly because lower-risk offenders have been sentenced to them. This is not to suggest that diverting such prisoners to ISP programs is inappropriate. On the contrary, a state that has a pool of low-risk offenders in prison is well advised to divert them to less-expensive community programs. But as higher-risk offenders are sentenced to such programs, higher violation rates are to be expected—especially if the programs vigorously enforce their technical

conditions. Given the finding that closer monitoring apparently does not improve high-risk offender behavior, high arrest and revocation rates are also to be expected.

The importance of this lesson cannot be overstated: When states are considering implementing ISP programs, particularly those designed to divert prisoners, they need to look closely at their "candidate pools." Design and implementation of appropriate programs depend critically on recognizing differences in offender profiles and understanding the risk levels of different offender populations with local areas (e.g., probationers, prisoners). The differences in these levels also must be taken into consideration when recidivism rates are compared across states and jurisdictions.

- Given the eligibility criteria, will you have a large enough pool of potential clients to justify an ISP?

Jurisdictions face a paradox here. To get support, they have to impose review procedures and eligibility criteria that make the public feel safe and managers feel in control. These very features may guarantee that they will not have a pool large enough to justify the effort. Marion felt constrained to limit participation to offenders with a new conviction for nonviolent felonies and to probationers and parolees who were revoked for violations not chargeable as criminal offenses. And neither could have any criminal record of violence. Another criterion was that the reviewers had to be unanimous in accepting a candidate. This was politically desirable, but virtually guaranteed a small pool of subjects.

Several researchers have noted the problem of estimating sample size for experimental studies (Farrington et al., 1986; Petersilia, 1989). The problem typically seems to be the lack of good information about how many cases to expect, and experience suggests that early estimates should be considered overoptimistic. Dennis (1988:52) quotes Boruch as saying that "as soon as the contract is made, the number of available subjects is cut in half."

Prior to the Marion experiment, no one analyzed the county's criminal records to see whether, given the initial eligibility criteria, they would have enough potential clients to justify having an ISP. Nor had anyone considered how requiring unanimity within both the MCCC and the ISP Review Team would limit the final eligibility pool.

- What are the likely outcomes if a program strenuously enforces its probation restrictions/conditions?

Jurisdictions face another paradox here. If they impose all the conditions they instituted to get support, they may well guarantee their own "failure." Agencies often feel constrained to propose features and conditions they cannot (or later do not want to) live with. Moreover, by the very nature of serious offenders, some conditions—especially drug testing—will guarantee so many violations that an ISP's effectiveness could be immediately questioned. The high revocation rate, primarily for absconding and drug violations, indicates that these were enough to produce "discouraging" outcomes.

- How should a program's success be defined and how will that affect its enforcement policies and continued funding?

Low recidivism and revocation rates were a major reason for the enthusiastic response to Georgia's ISP. Evidently, low rates are generally taken as a sign of success. However, if ISP does not directly reduce recidivism, low rates are most likely under two conditions: (1) the jurisdiction has a large pool of less-serious offenders (who would probably not be prison-bound in most jurisdictions across the country); or (2) the ISP is not vigorously enforcing some of its regulations on offenders—especially those involving curfews and drug violations.

More serious offenders are likely to have high revocation and recidivism rates in ISPs, for at least two reasons. First, serious offenders are at higher risk of violations and recidivism, and when they are closely monitored, violations and new crimes are more likely to be detected. Second, most serious criminals in this country have drug histories and/or problems. If you exclude them from ISP eligibility, you will virtually have no one left. If you don't exclude them, and make drug testing a program feature, you risk having numerous violations. If you are strict about those violations, ISP clients will have very high failure rates.

These paradoxes make it crucial to thoughtfully define the criteria for *program* success and failure. The basic issue is this: If clients fail, does that necessarily mean that the program has failed? For most funding bodies, the answer would seem to be "yes." ISPs with low revocation rates may secure continued funding; programs with high revocation rates may not.

On one hand, if the primary objective is saving system dollars, there is some argument for judging programs with high revocation rates as "failures." Since ISP offenders wind up in prison anyway, the system does not save much by investing in ISPs. On the other hand, if the objective is community safety, the argument may not hold up as well. If drug use (or possession) does indicate that an offender is dangerous to the community, then programs that have high revocation rates are successful—they are ensuring public safety. However, those rates can also be used to make the case that ISPs are ultimately unviable for serious offenders. The drug/crime nexus is just too strong.

Programs can control how high their revocation rates will be through their revocation policy. If they choose to let an offender on ISP have two, three, or more drug violations before revoking him or her, they may appear more "successful." However, a "lenient" revocation policy may be self-serving and dangerous—unless it reflects a belief that drug violations, per se, do not indicate that an offender is dangerous to the community.

Lenient treatment of violation raises another question: If programs are not going to enforce their conditions, how are they, effectively, different from regular probation and parole programs? Why not just let these people continue to get traditional probation, as most felony probationers did until five years ago? Put another way, the issue is: What does intensive supervision or surveillance "buy"—and can most jurisdictions afford it?

IS THERE CONTINUED JUSTIFICATION FOR ISPs?

Given the alternatives, we believe there is still a case for ISPs. However, before new experiments are tried, we need to (a) see whether the experiences of our other BJA demonstration sites bear out some or all of our conclusions from Marion; (b) refine the objectives of ISPs and, thus, the definition of program success; and (c) accept the greater-than-expected costs such programs may entail to the criminal justice system. And if the other sites bear out some or all of the Marion experiences, a number of additional issues need to be seriously thought about.

The alternatives to ISP remain prison or traditional probation/parole. In earlier reports, we have argued at length about the drawbacks of both for offenders who are not violent enough to need maximum security but too serious to have only nominal supervision (Petersilia et al., 1985). Here we will restrict ourselves to only the most practical and pragmatic reasons.

On the one hand, building enough prisons to house all of the current and projected serious felons is beyond the financial reach of most jurisdictions—without draconian cuts in other public agencies and services. On the other hand, serious felons do very badly on traditional parole and probation. They constitute a real menace to public safety and property. Between revocations and incarceration for new crimes, they constitute over half of the prison admissions on any day.

Clearly, traditional probation and parole are not tenable options for this group. But is ISP any better, if so many wind up back in prison anyway? From what we saw in Marion and early results from the three BJA-funded probation enhancement programs in California, ISPs have more technical violations than traditional probation programs do. Thus, ISPs could actually produce a hearty increase in revocations, putting greater pressures on prison crowding.

This possibility leads us to suggest that the objectives (and potential) of ISPs be refined. Given the public's demand for severe punishment and concern over the nation's drug problems, some of what we suggest may seem radical—if not actually irresponsible. However, we think the circumstances justify giving these suggestions serious consideration.

The nature of and response to technical violations should be carefully reassessed. Some of the violations now defined may indicate that offenders (or a particular offender) are dangerous and should be returned to prison. For example, a probationer who continually uses drugs probably should be revoked. However, to assume that one or all curfew violations necessarily indicate that any offender should be revoked seems unrealistic.

As for the matter of drug violations, the terrain is a political mine field. Nevertheless, we think some hard-minded consideration is in order. Is putting these people back in prison really the proper response? Are drug users, who are being very closely monitored in other ways, necessarily a threat to public safety?

There are (at least) two assumptions behind the drug-testing requirement: First, knowing that they will be tested for drugs and be revoked for drug violations, ISP offenders will be deterred from using drugs. Second, drug use is often criminal in itself and leads to further crime. Data from the sites indicates that the first is not true. The people in the Marion program knew that they would be "busted" for drugs, but that did not prevent some of them from "testing dirty" or possessing drugs. As for the second, the relationship between drug use and crime is complicated. Yes, we know that a majority of those arrested test positive for drug use. It is also probably true that most are under the influence of alcohol. But that is not the same thing as saying that drugs *cause* crime, a relationship that has never been scientifically proven.

Given these "facts," and the improbability that public sentiment will allow for programs that have no drug-testing conditions, what is a more fruitful approach to drug violations? The Marion data indicate that not every ISPer who had drug violations was returned to prison or jail for those violations. Data from the California ISP sites also suggest that the ISP staff did not automatically revoke clients for these violations (Petersilia and Turner, 1990). Evidently, staff responded on a case-by-case basis and weighed the trade-offs for drug revocations.

The most obvious trade-off is between scarce prison space and public safety. But does a knee-jerk revocation serve public safety (and the public pocketbook) best? It may take awhile for offenders to break a drug habit. Would it be both more humane and of more self-interest for the system to get drug users into counseling and drug treatment? The user who wants to stay in the community (for other reasons) may be able to overcome the habit to achieve that goal. If it is true that drugs are readily available in many prisons, sending an offender there may not only destroy any incentive to quit but give him a ready supply. When such offenders get out of prison, free or on nominal parole, they may have few incentives to stop abusing. If drug use is criminogenic, the cycle will be unbroken.

It may be that new crimes rather than technical violations should be the measure of an ISP offender's failure. The results from Marion indicate that by the end of six months, only one ISP offender had an arrest that resulted in a conviction, but half had been incarcerated for technical revocations.

Some will argue that the virtue of technical revocations is getting offenders out of the community as soon as they show signs of risk, that if these offenders had been left in the ISP, they would soon have committed crimes. The behavior of the prisoners may bear this out. They were not monitored as closely as the ISP offenders; at 12 months, they had fewer technical violations and revocations, and more arrests and convictions than ISP offenders.

Several interpretations of these data are possible. First, monitoring may uncover a host of technical violations, but it may also inhibit criminal activity among ISP clients. In which case, early revocation might not have been necessary. Second, they may have been removed from the community before they had a chance to commit more crime. In which case, the technical violations do serve as good early warning systems. Third, the prisoner/parolees may have felt their chances of getting caught were lower. In which case, the lack of monitoring was an "incentive" to take a chance.

The best way to address and sort out these alternatives is through random assignment to programs with different policies and practices regarding violations. If offenders sent to programs with less rigorous revocation policies do commit crimes after they have had violations, then that argument seems supported. One thing seems certain, however: These people need more supervision, that supervision may result in more violations, and that in turn may increase commitments to already crowded prisons and jails, or it may just make the revolving door turn faster.

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