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### Offenders, Judges, and Officers Rate the Relative Severity of Alternative Sanctions Compared to Prison

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## Offenders, Judges, and Officers Rate the Relative Severity of Alternative Sanctions Compared to Prison

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**ABSTRACT** Recent work suggests that offenders rate several alternatives as more severe than imprisonment. We build on this literature by comparing punishment exchange rates generated by criminal court judges with rates generated by offenders and their supervising officers. Findings reveal that none of the three groups rates prison as the most severe sanction and judges and officers rate alternatives as significantly less severe than offenders. Offenders are generally willing to serve less of each alternative to avoid imprisonment than judges or officers. Serving correctional sanctions thus appears to reduce the perceived severity of imprisonment and increase the perceived severity of alternatives.

**KEYWORDS** Community corrections, sentencing, exchange rates, prison, judges

### INTRODUCTION

In the dynamic world of corrections, alternative sanctions have become a widely used and viable option for judges and offenders. With the dramatic growth in the justice system over the past 30 years and the introduction of a range of new non-custodial sanctions, the study of their punitiveness compared to prison would seem a logical target for research. However, there has been only limited study of this issue (May, Wood, Mooney, & Minor, 2005). The scant literature on this topic has focused on the concept of severity and how alternative sanctions have changed the options by which our criminals can be punished, as well as their place germane to custodial sanctions (Crouch, 1993; Petersilia, 1990; Petersilia & Deschenes, 1994a, 1994b; Spelman, 1995; Wood & Grasmick, 1999).

With the implementation of alternative sanctions, interest arose regarding these sanctions' place in a "punishment continuum" (Petersilia, 1990; Von Hirsch, Wasik, & Greene, 1992). General assumptions placed probation and prison at the ends of the continuum, and alternative sanctions were presumed to fall somewhere in between. Offender perceptions of intermediate sanctions were first assessed in relation to prison in order to substantiate the belief that such measures were less onerous as custodial sentences (Crouch, 1993; Petersilia, 1990). However, it became clear that more in-depth analyses would be needed, and researchers began to study not only how these sanctions compared to prison but also how such punishment equivalencies varied by gender, race, and other offender characteristics (Morris and Tonry, 1990; Petersilia, 1994a, 1994b; Spelman, 1995; Wood & Grasmick, 1999; Wood & May, 2003). Such research has greatly enhanced the body of knowledge surrounding offender perceptions of punishment and the factors that influence these perceptions (May et al., 2005; Wood & Grasmick, 1999; Wood & May, 2003).

As the current body of knowledge continues to expand, however, one important population has been overlooked. Having a direct hand in whether (and what types of) alternative sanctions are imposed on offenders, it would seem that judges' perceptions and attitudes towards these punishments would be important to know. As the use of alternatives is somewhat dependent on judges' opinions of the severity of these sanctions, assessing their views of alternative sanctions is pivotal in taking the necessary steps toward the development of a more informed continuum of sanctions. Accordingly, this study contributes to such a development by exploring judges', offenders', and officers' perceptions of the relative

severity of alternative sanctions compared to prison by examining punishment exchange rates generated by each group.

### ***ASSESSING THE RELATIVE SEVERITY OF CRIMINAL JUSTICE SANCTIONS***

In regard to measures by which we punish our offenders, the general public has traditionally perceived probation and imprisonment as marking the opposing ends of society's penalty continuum, with imprisonment viewed as the most punitive sanction short of death (von Hirsch, 1990; Wood & May, 2003). Misdemeanors and minor felonies might be assigned non-custodial sanctions, while more harmful and serious crimes would be punished through varying lengths of incarceration. Validating a continuum of sanctions, however, has been no easy task.

When legislators and policy makers develop alternative sanctions and make pivotal decisions concerning their implementation, they do not base such decisions on experiential data, but instead rely on personal assumptions and public opinion (Morris & Tonry, 1990). Nevertheless, the assumption that probation and prison are located at opposite ends of the continuum has been challenged of late, as recent work has sought to better understand how offenders perceive and experience a range of criminal justice sanctions (Crouch, 1993; Petersilia & Deschenes, 1994a, 1994b; Spelman, 1995).

Petersilia (1990) argued that a disjunction between offender perceptions of punishment severity and public perceptions of punishment severity is likely because (1) offenders typically do not live by the same norms and ideas as the public, as evidenced by the law-breaking actions that lead to their offender label and (2) offenders typically come from lower socioeconomic strata, meaning their standards for living will be significantly lower than the general population, especially when compared to those in the position of adopting and implementing criminal policies. Later, citing aspects such as the reduction in the harmful stigmatization, a less isolative environment, and less deleterious effects on future employment, Petersilia argued that prison itself may be losing its onerous effect on those incarcerated. Research has since supported that argument (see Flory, May, Minor, & Wood, 2006, for review).

The earliest literature exploring perceptions of alternative sanctions and their place in the punishment continuum focused mainly on the offenders' perceptions of prison and how these new programs coalesced with such views (Crouch, 1993; Petersilia, 1990; Petersilia & Deschenes,

1994a, 1994b; Spelman, 1995). Crouch (1993) followed Petersilia's original work with a similar study that examined the preferences of varying lengths of probation and prison among 1,027 male convicted felons in the Texas correctional system. Offenders were given 11 pairs of durations of either probation or prison and asked which one they would prefer if given the choice. In 5 of the 11 situational comparisons, between 25 and 66 percent of the offenders acknowledged a preference for prison over probation. Crouch (1993) also found that older respondents were more likely to prefer prison over alternative sanctions than their younger counterparts and married respondents were willing to serve less time in prison than their unmarried counterparts. His most significant finding, however, was that African Americans had a much stronger preference for prison than did whites.

Subsequently, Petersilia and Deschenes (1994a, 1994b) sampled 48 offenders who, according to statutes of the Minnesota Legislation, would be prime candidates for intermediate sanctions. After collecting basic demographic and background data, the authors solicited offender perceptions of intermediate sanctions through magnitude estimation (where a participant is presented with an average length of punishment [e.g., one year in prison] worth an equivalent of 100 points and then asked to rank other sanctions in terms of their total number of points) and a basic rank ordering of 15 popular sanctions. In rank ordering sanctions, offenders were given 15 alternative sanctions and asked to order them from least severe to most severe. Petersilia and Deschenes (1994a, 1994b) determined certain alternative sanctions were perceived as equally or more severe than shorter terms in prison, though five years in prison was rated the most severe penalty by far. Spelman's (1995) study of 128 Texas male offenders regarding the severity of 26 felony punishments also used magnitude estimation as a means of ranking offenders' perceptions of punishment. Spelman determined that the most severe sanctions were three and five years of prison while a \$100 fine was perceived the least onerous and several intermediate sanctions were ranked to be at least as punitive as prison. Like Crouch, Spelman found that older and African American participants preferred a shorter prison term to intensive supervision.

### *Using Exchange Rates to Measure Relative Severity*

In an attempt to address the methodological limitations with magnitude estimation which relied heavily on the "numeracy of respondents" among a population that is noted for being poorly educated (Spelman,

1995, p. 112), Wood and his colleagues developed the “exchange rate” method whereby researchers simply asked offenders to indicate the duration of an alternative sanction they would serve to avoid specific amounts of actual time in prison (May et al., 2005; Wood & Grasmick, 1999; Wood & May, 2003). This method allowed respondents to draw on their own personal experiences to generate a punishment equivalency, and required minimal mathematical aptitude to determine an accurate response (Wood & Grasmick, 1999). Furthermore, this technique not only allows for a comparison of alternatives with prison but also allows one to consider how the various sanctions relate to one another in severity.

Wood and his colleagues have utilized exchange rates to examine perceptions of alternative sanctions among a wide variety of groups, including prisoners (Wood & Grasmick, 1999), probationers and parolees (Wood & May, 2001; May, Minor, Wood, & Mooney, 2004; May et al., 2005; Williams, May, & Wood, 2006), and probation and parole officers (Flory et al., 2006). These studies have determined that, in general: (1) both boot camp and jail are viewed as more onerous than prison; (2) Blacks are more willing to go to prison than Whites; (3) offenders with previous prison experience are more willing to go to prison than offenders without prison experience; (4) males are more willing to go to prison than females; and (5) older offenders were also less likely to agree to serve in alternative sanctions, particularly over a long period of time, than their younger counterparts. Wood and his colleagues have suggested that these preferences for prison are explained by a number of factors, including: (1) failure to complete an alternative sanction results in revocation to prison; (2) offenders view alternative sanctions as difficult to complete; and (3) officers overseeing alternative sanctions may mistreat participants. As a consequence, offenders evaluate participation in alternatives as a sort of “gamble,” choosing the option that they are most comfortable with, which often results in the selection of prison over an alternative.

### ***Exchange Rates Among Criminal Justice Practitioners***

As knowledge regarding offenders’ perceptions of the severity of sanctions evolves, a logical progression is to extend the same questions to practitioner populations (i.e., supervising officers and judges). Flory et al. (2006) compared the exchange rates of 612 probationers and parolees with exchange rates generated by 208 of their supervising officers. Of the nine sanctions included in the instrument, Flory et al. (2006) found significant differences between offenders and officers in

six alternatives. The most notable difference was in the officers' mean predicted exchange rate for probation, which was nearly double the mean rate presented by offenders. Though this was the greatest discrepancy, the same pattern was found among exchange rates for county jail, electronic monitoring, day reporting, and intermittent incarceration. The only sanction where the mean rate for offenders was higher than the officers was for community service, as offenders claimed they would serve more than twice the number of hours given by the officers. One explanation for this included shame, as officers may find community service more demeaning and embarrassing due to their possible exposure to community disapproval, something that may have little to no effect on offenders. In general, officers overestimate offenders' perceptions of the severity of prison.

One population with a direct hand in the implementing of alternative sanctions is judges. A small number of studies have examined, both directly and indirectly, judges' attitudes and perceptions of alternatives. Finn (1984) examined judges' responses to prison overcrowding and determined that most judges cited that overcrowding was associated with the lack of money needed to support the expanded services related to probation and parole, as well as the building and maintaining of the required alternative facilities. Judges also acknowledged the pressure from strong public sentiment to lock away criminals. Cole, Mahoney, Thornton and Hanson (1988) explored judges' application and attitudes toward the use of fines and determined that judges were willing to use fines for more severe offenses. Lurigio (1987) examined the attitudes of judges and attorneys from Cook County Illinois concerning the use and implementation of intensive probation supervision (IPS). In that study, a number of judges were reluctant to use IPS and none of the judges reported that sentenced offenders chose prison instead of IPS (perhaps because of its relative infancy in that jurisdiction). Wooldredge and Gordon (1997) used a random sample of 181 chief trial court judges to determine characteristics of the judiciary that would predict a greater use of alternatives as well as judges' willingness to use such sanctions. They determined that judges presiding in courts with less structured sentencing policies and longer minimum sentences were more likely to be amenable to using intermediate sanctions. The same was true for both smaller courts as well as courts with higher rates of plea bargaining. Judges also cited more structured sentencing policies as limiting their sentencing discretion and their ability to use alternative sanctions in lieu of prison (Wooldredge & Gordon, 1997).



Despite the previous studies that examine attitudes toward and use of alternative sanctions among judges, no studies have examined judges' perceptions of the relative severity of alternative sanctions when compared to prison. Because judges have direct input in decisions about what punishments offenders receive, their perceptions of the severity of punishments and, ultimately, the punishment continuum are important. Furthermore, it seems useful to compare judges' perceptions of alternative sanctions with those of offenders under community supervision, as well as their supervising officers. Doing so can not only expand the body of work surrounding the perceptions of alternative sanctions, but also provide evidence that could lead to more accurate sentences resulting in offenders experiencing the consequences intended by our judicial system.

Von Hirsch, Wasik, and Greene (1992) note that, "The time has come to apply a coherent penal rationale to the development of, and choice among, punishments in the community" (p. 370). In this study, we aid in this process by exploring judges' perceptions of alternative sanctions to reveal the opinions and viewpoints of a population that, up to this time, has been unobserved but has perhaps the most direct hand in the assignment of intermediate punishments. Furthermore, as a substantial body of knowledge exists that documents perceptions among offenders (Petersilia, 1994a, 1994b; Spelman, 1995; Wood & Grasmick, 1999; Wood & May, 2003), viable comparisons can be made between these two groups. Despite gains that have been made, "more work is needed to create a meaningful continuum of sanction severity and punishment equivalency" (Wood & Grasmick, 1999, p. 45). As this work is performed, studies may eventually shift from exploratory assessments to research with more direct policy implications. The present study will contribute a significant piece of the continuum puzzle that researchers have been constructing over the past decade.

## **RESEARCH DESIGN**

### ***Sample***

The data utilized in this study originate from three different sources. Responses from judges were collected via surveys during the fall of 2004 from all the county judges that were currently serving in the state of Kentucky and had presided over a circuit court (or were currently in that role). Of the 132 active judges in the state, 96 presided in a circuit court and 36 in a family court. A list of the names and addresses of all

the sitting judges in the state was solicited from the Administrative Office of the Courts and consequently served as the target sample. Responses from probation/parole officers and probationers and parolees were obtained from May and Wood who have described their data collection elsewhere (Flory et al., 2006 and May et al., 2005, respectively).

The instrument used to collect the data from the three groups under study here was a questionnaire adapted directly from the one utilized by Wood and Grasmick (1999) and Wood and May (2003) and has been described elsewhere (May et al., 2005; Flory et al., 2006). This survey was originally constructed after extensive consultation of incarcerated prisoners in Oklahoma. After creating the instrument, Wood and Grasmick then pretested it on 25 inmates asking them to pay close attention to its wording and structure. Revisions were then later made based on these findings as the instrument was then distributed to a larger sample.

### ***Dependent Variable—Judges' Exchange Rates***

The final section consisted of questions pertaining to 9 alternative sanctions including county jail, boot camp, electronic monitoring, regular probation, community service, day reporting, intermittent incarceration, placement in a halfway house, and day fines. Included with each sanction was a short but detailed description depicting the exact ramifications of that sanction in order to ensure that each respondent was considering the same penalty (see Appendix A). After each description, respondents were then asked to consider 12 actual months of medium-security imprisonment and to indicate the exact number of months of the particular sanction they personally would be willing to endure to avoid serving the 12 months of prison time. In doing this, the data will allow for the comparison of alternative sanctions to prison while also providing an indirect means of ranking such alternatives in terms of perceived punitiveness. Despite slight changes made to the wording of several of the demographic questions among each group, the structure and overall makeup of the instrument was maintained due to the acceptable reliability demonstrated in all previous studies where the instrument was used (Flory et al., 2006; May et al., 2005; Wood & May, 2003; Wood & Grasmick, 1999).

### ***Procedures for Data Collection***

Given that the procedures used to collect data from probationers, parolees, and their supervising officers have been described elsewhere (see May et al., 2005 and Flory et al., 2006), we will limit the discussion

of the data collection for this study to the data from the judicial respondents. Permission to administer the questionnaires to judges was first solicited from the Kentucky Administrative Office of the Court (AOC). Once granted, the surveys were distributed at a state conference where nearly all of the 132 active county judges were expected to attend in the Fall of 2004. Despite our insistence that we be involved in the questionnaire administration at the conference, the distribution and collection of the surveys was delegated to an AOC representative that worked in conjunction with the research team. As such, the exact time, method, and manner the instruments were distributed could not be controlled or monitored. Nevertheless, we were able to compile the contents of the packet to be distributed and, in addition to the questionnaire, we included a cover page introducing the study, provided contact information in case of any problems or questions, and insured the respondents of its anonymous nature.

After the completed surveys were returned from the conference, follow-up packets were sent approximately 30 days later to every judge whose name and address was provided by the court administrator contact. The packet contained an introduction letter, the survey, and a pre-stamped return envelope. Given that we were no longer able to insure anonymity, the cover letter provided details of the research, declared the confidential basis with which data were to be collected, provided contact information in the case of any problems or questions, and instructed the judge to discard the questionnaire if they had completed it at the conference in the previous month. Packages containing follow-up letters and copies of the questionnaire were mailed approximately two weeks after the initial mailing; a similar packet was mailed for the third time approximately one month after the initial mailing.<sup>1</sup>

## *FINDINGS*

Results presented in Table 1 reflect the general demographics of the respondents ( $N = 72$ ). As expected, the majority of responding judges were middle-aged, white males who presided in big city suburbs. They generally received between 18 and 20 years of education, which roughly equates to earning a Master's or Juris Doctorate degree. Surprisingly, nearly two-thirds of respondents had been a judge either no longer than 5 years or between 13 and 20 years. Concerning respondents' practices and experiences in the courtroom, the majority of adjudicators conducted less than 20 trials per year and most indicated that over 85

□ **TABLE 1: Judicial Sample Descriptive Statistics**

<b>Variable</b>	<b>Percentage</b>
<b>Age</b>	
45 years old and younger	13.5%
46-60 years old	69.4%
61 years old and older	17.1%
<b>Gender</b>	
Male	84.3%
Female	15.7%
<b>Race</b>	
African American/Black	2.9%
Caucasian/White	97.1%
<b>Setting where judge presides</b>	
Country/Nonfarm	12.7%
Town of less than 50,000	14.1%
Big City Suburb	38.0%
Farm	12.7%
Town of 50,000-250,000	4.2%
City of more than 250,000	18.3%
<b>Years of Education</b>	
17 years or less	4.3%
18-20 years	85.6%
21 years or more	10.0%
<b>Judicial Experience</b>	
5 years or less	34.3%
6-12 years	18.3%
13-20 years	31.3%
21 years or more	15.7%

□ **TABLE 1 (continued)**

Variable	Percentage
<b>Number of trials conducted each year</b>	
10 trials or less	35.4%
11-20 trials	47.1%
21-30 trials	13.3%
30 trials or more	4.5%
<b>Number of offenders sentenced to prison per year</b>	
50 offenders or less	18.1%
51-125 offenders	40.9%
126-250 offenders	33.3%
251 offenders or more	7.5%
<b>Percentage of cases that result in plea agreement</b>	
50% or lower	3%
51%-85%	26.9%
85% or higher	70.2%
<b>Percentage of those eligible for noncustodial sanctions that are sentenced to prison</b>	
0%-10%	21.6%
11%-30%	30.8%
31%-60%	27.7%
61%-99%	20%
<b>Percentage of offenders who refuse to serve an alternative sanction and opt for prison</b>	
0%-2%	62.1%
3%-6%	21.2%
7%-15%	15.1%
16%-25%	1.5%

percent of cases resulted in plea agreements. While the bulk of respondents admitted incarcerating between 51 and 250 offenders each year, it was interesting to see such a wide and equal distribution of responses when asked the rate of incarceration concerning offenders who were eligible for noncustodial sanctions. Over half of the respondents reported incarcerating between 0 and 30 percent of alternative sanction eligible prisoners while their remaining counterparts designated prison terms to

between 31 and 99 percent of those offenders who qualified for alternative sanctions. Results also indicated that a small number of judges did in fact have experience with offenders refusing to participate in alternatives and rather opting for a prison sentence. In fact, over one third of judicial respondents reported witnessing between 3 and 25 percent of offenders opting for incarceration in lieu of an alternative punishment.

Given that (1) no research compares exchange rates of judges with those of any other group and (2) we had access to data regarding exchange rates from offenders (probationers and parolees) and their supervising officers in Kentucky (May et al., 2005; Flory et al., 2006), we then compared the mean exchange rates of judges with offenders and officers. Results presented in Table 2 show that the exchange rates offered by offenders are concentrated in a much narrower range of duration than those generated by judges and officers. Exchange rates vary from 5.54 months to 23.56 months for offenders, but for judges the range is from 6.19 to 39.59 and for officers it is 6.05 to 44.23 months. The results presented in Table 2 further reflect that offenders routinely rate alternatives as more punitive than do judges or officers—with the exception of community service. Offenders will serve an average of 1,817 hours of community service, judges would serve 1,440, and officers would serve only 700.50 hours to avoid 12 months of prison. Offenders clearly view probation as much more severe as do either judges or officers because they will serve about half of the duration of probation as judges and officers. For every other sanction, however, offenders generate lower exchange rates than do either judges or officers—meaning that offenders will serve less of a given alternative to avoid 12 months of imprisonment and view alternatives as more severe than do judges or officers. Relatedly, offenders appear more willing to serve time in prison than judges or officers when compared to alternatives. Note that the least severe sanction in all three groups is regular probation, though judges and officers would do nearly twice the amount of probation to avoid imprisonment than would offenders.

A crude severity ranking of sanctions based on exchange rates provided in Table 2 is depicted in Table 3. Prison is given a score of 12.00 because all other sanctions are in reference to one year of imprisonment. Aside from variation in the range of exchange rates and the fact that judges and officers will do more of an alternative to avoid prison compared to offenders, offenders' and judges' rankings of the severity of criminal justice sanctions are remarkably similar, while officers' rankings diverge in some specific instances. Offenders rank halfway house as more severe than judges, while judges rank community service as more severe than

□ **TABLE 2: Comparison of Mean Exchange Rates Among Offenders, Judges, and Officers**

Alt. Sanction	Offenders (1)			Judges (2)			Officers (3)		
	N	Mean	St.D.	N	Mean	St.D.	N	Mean	St.D.
County Jail	587	5.54 <sup>2,3</sup>	4.81	65	7.38 <sup>1</sup>	3.71	206	8.12 <sup>1</sup>	5.79
Boot Camp	574	6.07	5.54	67	6.19	3.72	206	6.05	4.02
Electronic Monitoring	584	13.95 <sup>3</sup>	11.82	68	16.25	7.94	206	17.57 <sup>1</sup>	12.15
Probation	584	23.56 <sup>2,3</sup>	16.54	66	39.59 <sup>1</sup>	24.95	206	44.23 <sup>1</sup>	25.61
Comm. Service	583	1817.29 <sup>3</sup>	1747.34	62	1440.00 <sup>3</sup>	2145.44	199	700.50 <sup>1,2</sup>	1013.82
Day Reporting	582	17.01 <sup>2,3</sup>	14.96	63	32.83 <sup>1,3</sup>	25.21	206	22.62 <sup>1,2</sup>	20.24
Int. Incarceration	585	14.60	12.34	62	17.58	10.60	206	16.88	13.21
Halfway House	583	14.42 <sup>2</sup>	11.96	64	18.47 <sup>1</sup>	12.96	206	15.62	10.48
Day Fines	573	12.22 <sup>2</sup>	12.80	57	15.62 <sup>1,3</sup>	24.39	205	13.48 <sup>2</sup>	18.83

<sup>1</sup> Signifies that this group is significantly different (p < .05–Tukey HSD test) than Group 1 (ANOVA)

<sup>2</sup> Signifies that this group is significantly different (p < .05–Tukey HSD test) than Group 2 (ANOVA)

<sup>3</sup> Signifies that this group is significantly different (p < .05–Tukey HSD test) than Group 3 (ANOVA)

□ **TABLE 3: Comparison of Sanction Severity Rankings Among Offenders, Judges, and Officers Based on Exchange Rates in Table 2\***

Severity Ranking	Offenders	Judges	Officers
Most Severe	County Jail	Boot Camp	Boot Camp
	Boot Camp	County Jail	County Jail
	Prison	Prison	Community Service
	Day Fines	Day Fines	Prison
	Electronic Monitoring	Electronic Monitoring	Day Fines
	Halfway House	Intermittent Incar.	Halfway House
	Intermittent Incar.	Community Service	Intermittent Incar.
	Day Reporting	Halfway House	Electronic Monitoring
	Community Service	Day Reporting	Day Reporting
	Least Severe	Regular Probation	Regular Probation

\*With regard to community service, we assigned respondents 20 hours per week, at four weeks per month based on the total hours of community service for each group in Table 2. Few offenders perform that much community service per week, and our calculation of months of community service may serve to inflate the punitiveness of community service.

offenders. Offenders may not like the close supervision, the curfews, and the ban on visitors associated with halfway house. Judges (and officers), on the other hand, may rank community service as more severe due to aforementioned concerns about shame and embarrassment in the community. Surprisingly, officers rank community service as even more severe than imprisonment (3rd in the severity ranking compared to 7th among judges and 9th among offenders), and their ranking of electronic monitoring is much lower in the severity ranking (8th) than that of offenders and judges (5th). Officers clearly view community service as punitive, but view electronic monitoring as less severe than either judges or offenders.

### CONCLUSION

In this study, we combined data collected from judges in Kentucky with data from other studies that we have conducted to compare exchange rates of judges with probationers, parolees, and probation/parole officers



from Kentucky, extending the extant body of research on offender exchange rates (e.g., Flory et al., 2006; May & Wood, 2004; May et al., 2005; Wood & Grasmick, 1999; Wood & May, 2003). The results from this study suggest that, with limited exceptions, exchange rates offered by judges more closely resembled exchange rates provided by the officer sample than those of the offenders. With the exception of community service, judges would serve longer amounts of alternative sanctions to avoid prison than offenders themselves stated they would do. Furthermore, for county jail, regular probation, day reporting, halfway house, and day fines, there were statistically significant differences in the exchange rates among the two groups. In each of these cases, the exchange rates of the judges were *higher* than those of offenders, indicating that judges felt prison was a more stringent sanction (when compared to these alternative sanctions) than did the offenders.

Nevertheless, the findings reported here also reveal that judges, while offering higher exchange rates than offenders, differ slightly from officers in their exchange rates as well. Judges offered significantly lower exchange rates than probation and parole officers for community service and significantly higher exchange rates than officers for day reporting and day fines. Additionally, though the differences were not statistically significant, judges would serve lower amounts of probation and electronic monitoring and higher amounts of intermittent incarceration and halfway house to avoid prison. Interestingly, the mean exchange rates for jail were almost identical among each of the three groups. Consequently, the results from this research suggest five important conclusions with implications for policy.

First, the results from this research reveal that neither judges, officers, nor offenders view prison as the harshest punishment. In fact, if there is one universal finding across the three groups, it is the consensus among the groups that 12 months in medium-security prison is roughly equivalent to six months in boot camp. We have now replicated this finding in three states (Oklahoma, Indiana, and Kentucky) among four types of respondents (judges, probation/parole officers, probationers/parolees, and prisoners). As such, both the clients and practitioners in the criminal justice system agree that boot camp (no matter where that camp is located) is approximately twice as punitive as medium security prison.

Secondly, in comparison to offenders and judges, officers would serve far less time in community service to avoid prison. The implications of this finding are twofold. First, as we have suggested elsewhere (Flory et al., 2006), offenders (and now judges) may be basing their perceptions on how much they would be “willing” to serve to avoid prison while

officers may be basing their perceptions on how much community service offenders on their caseload have “actually completed” to avoid prison. Second, on the one hand, judges and offenders evidently feel that community service is less hassle than what officers feel it would be for offenders. Judges evidently do not share the same shame/embarrassment or community disapproval that officers may feel while performing community service. Officers appear to view community service as a far more punitive sanction than the judges responsible for sentencing offenders to community service and the offenders sentenced to community service. On the other hand, it could be that this discrepancy is due to the intimate familiarity that officers have with the delivery of community service; in fact, the application of community service may be far more onerous than either offenders or judges know. No matter what the cause, this difference could have dramatic implications for community service as a condition of probation or parole. Future research should explore this topic in greater detail to determine why community service is perceived as such a severe sanction by officers but not judges and offenders.

A third important implication of this finding is that when community/local sanctions (electronic monitoring, halfway house, day reporting, and day fines) are compared with imprisonment, judges feel these sanctions are far less punitive than the offenders that they will sentence to those sanctions. This has major implications for sentencing strategies that are often based on the assumption that revocation followed by imprisonment is the ultimate punitive sanction as a means of enforcing compliance with conditions. The present findings, nevertheless, contradict that assumption and suggest that the “hammer” of incarceration for technical violations of community supervision is not near as heavy for the offenders receiving the sanctions as it is for the judges delivering them. Indeed, the findings presented here suggest that judges would do as well, or perhaps better, to rely on threats of electronic monitoring, day reporting, boot camp, or jail to enforce compliance. According to our data presented here and elsewhere, revocation and subsequent imprisonment are not as punitive to offenders as to officers or judges and supervision strategies that take this into account might assist in reducing the extent to which probation/parole revocations presently contribute to prison crowding.

Fourth, in results presented elsewhere, Moore (2007) determined that exchange rates for day reporting, halfway house, and day fine were best explained in a context whereby a number of factors combine to influence decision-making processes among the judges under study here. When considering each of these sanctions individually, however, all are fairly

restrictive but still allow a participant to be somewhat bonded to society. Judges may be acutely aware that sentences are most effective when offenders can maintain with the community or family while serving out sentences. As such, despite the noticeable flexibility these particular punishments include, which allows for offenders to maintain their connections to the community, they are still somewhat restrictive.

This assumption may also explain the higher exchange rates offered by judges for day fines, day reporting, and, to a lesser extent, halfway house when compared to offenders and officers. These particular sanctions may be extremely appealing to judges in that they can serve a dual purpose by having “restrictive flexibility” that can satisfy the public outcry for punishment while also allowing individuals to maintain the established bond they have with the family or community. This initial attraction may bring about a more positive overall view of such sanctions, which, inevitably, converts into higher exchange rates.

Finally, though the initial tendency might be to simply dichotomize the three populations explored herein (i.e., offenders, officers, and judges) into either offending or non-offending groups, it is important that judges be viewed as a separate group due to the tendencies revealed in the data comparison. Like offenders, judges were found to have significantly different mean exchange rates than officers for three alternative sanctions (community service, day reporting, and day fines). Interestingly, each differing rate shared the trend of provided judicial exchange rates being higher than those offered by the probation and parole officers. As such, the data collected here would primarily suggest that, of the three groups explored, judges find prison the most punitive. However, an alternative explanation may be that judges may underestimate the punitive nature of the alternative sanctions, an act that would still explain the higher rates offered by the judicial population and be in accordance with the hedonistic calculus. This underestimation of sorts would be less likely to occur in either the offender or officer population due to their direct experience of either undergoing or enforcing each sanction. However, when comparing all three populations, the data suggest that more direct experience with the justice system tends to be associated with lower offered exchange rates to avoid a one-year prison sentence.

The research reviewed here is not without limitations. There was little variation by gender or race in the judge sample, two of the strongest predictors of preference for prison over alternative sanctions among offenders. This finding matches that of Flory et al. (2006) who determined few differences among the officers by race and gender as well. As such, research such as this should be conducted with larger, more diverse

samples from other regions to insure that the findings presented here are not an artifact of the sample used. Secondly, research regarding perceived exchange rates needs to be extended to legislators and other criminal justice officials to determine how their exchange rates compare with those groups under study here. To develop a continuum of sanctions that is more effective at controlling recidivism, and more just in delivering punishments, input from all the aforementioned groups needs to be considered.

Within the limitations of these data, however, the results presented here allow for the exploration of the perceptions of the continuum of punishment among judges, offenders, and officers. Judges play an integral role in the sentencing process, and a better understanding of their perceptions of the punishments they impose should inform the development and implementation of a continuum of sanctions that more accurately embodies principles of desert and proportionate punishment in our criminal justice system. Nevertheless, this effort should not stop here. Efforts to examine perceptions of the punitiveness of prison should be extended to legislators, parole board members, and other influential figures in the realms of corrections and sentencing policy. These efforts should eventually allow researchers to do a better job in designing equitable punishments where some offenders serve their time in the community, rather than in the costly “alternative to alternatives,” prison.

#### NOTE

1. The third mailing was sent only to judges who were indicated to be presiding over a circuit court because several family court judges returned incomplete questionnaires during the first two mailings where they claimed their experience and specialized niche in the justice system had little connection with decisions to impose alternative sanctions on offenders. Based on this evidence, we also assumed (but have no way of knowing with absolute certainty) that any family court judge who attended the fall conference likewise declined to participate in this study for the same reasons. As such, it is likely that all respondents were circuit court judges. Nevertheless, we feel a conservative response rate should be based on the total of 132 active judges, not solely those who presided over a circuit court.

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## APPENDIX A

- (1) **County Jail.** If you are sent to a county jail, you may spend less time there than you would in prison. However, living conditions are more restrictive in a jail than they generally are in a large prison. Unless assigned to work, you may spend more time in your housing unit, and there are not as many opportunities for sports, school, etc. Jail time is generally viewed as more boring and more restrictive than prison time.
- (2) **Boot Camp.** Boot camp is for a shorter time than you would have been sent to prison. But boot camp can be more unpleasant in many ways than living in prison. Boot camp is like basic training in the army. You live with about a hundred other people in one big room. There is regular drill instruction like in the military and you are pushed physically and psychologically to perform beyond your capabilities. You experience loss of sleep. You are required to become physically active and fit. You are constantly supervised by drill instructors that watch you closely. You are generally required to participate in an education program. Virtually all your time and activities are controlled. You are subject to random urinalysis tests and can be sent back to prison if you fail to obey the rules.
- (3) **Electronic Monitoring.** On electronic monitoring, you live at home, but your freedom is greatly reduced. You wear an electronic device on your ankle. If you get more than 200 feet from the base unit, the device sends an alarm to a computer. Then an officer who is supervising you knows that you are not where you are supposed to be. On electronic monitoring you are being followed by the computer 24 hours a day. There are strict curfews and rules about when you must stay in your house. If you break these rules, you can be sent to prison. You are subject to random urinalysis tests and can be sent back to prison if you fail to obey the rules.
- (4) **Regular Probation.** On probation, you do not spend time in prison, but the amount of time on probation usually lasts much longer than whatever prison sentence you might have gotten. You must see your probation officer at least once a month, but it can be every week if ordered. You must get permission from that probation officer to travel or to move. Your probation officer can require that you stay away from certain people. Your home or car can be searched at any time without a search warrant. If you do not follow the rules you can be sent to prison. You are also subject to random urinalysis tests.
- (5) **Community Service.** When you are sentenced to community service, you live at home and can have a job. However, you must work some time without pay to make up for the crime for which you were convicted. You work for a government agency or some local non-profit organization, and you do not have any choice about where or what the job is. The judge decides the number of days and hours you must work. If you fail to work the required days and hours, you can be sent back to prison. You are also subject to random urinalysis testing.
- (6) **Day Reporting.** If you are sentenced to day reporting, you can stay home at night, but you must check in at a parole office every day. During the day you must have a job or you must go to some center in the community and be involved in activities all day. These activities might include working for no pay in the community, looking for a job, counseling, job training, and education programs. At the end of the day you get to go home. You may be *required* to work, and if you do you must check in *every day* during non-work hours. Failure to abide by the rules can result in you going back to prison. You are also subject to random urinalysis testing.
- (7) **Intermittent Incarceration.** With this punishment, you must spend weekends or evenings in the county jail, which typically is much more unpleasant than prison. But, since you are not in prison, you can have a job and be involved with your family and community

when you are not spending time in jail. However, failure to report to jail, or failure to pass a random urinalysis test can result in you returning to prison.

- (8) **Halfway House.** A halfway house is a place where several people convicted of crimes live. There is no strict security like there is in prison, but there are firm rules that you must follow. Halfway houses have rehabilitative programs, and if your behavior improves you are treated better and given more freedom. Break the rules and you can be placed back in prison. As always, you are subject to random urinalysis and searches, and constant observation. You are not allowed to have visitors.
- (9) **Day Fine.** A day fine is based on the amount of money you make each day. You are allowed to subtract some money for your rent, transportation, food, utilities, etc., but whatever is left over you have to pay as a day fine. For example, if you had \$20 left each day after expenses, your day fine would be \$20 for every day the judge says you have to pay. If the judge gives you a day fine of 90 days, and your day fine rate is \$20, you would have to pay a total of \$1,800. Failure to pay your fines can result in you being sent back to prison.