

A Decade of Experimenting With Intermediate Sanctions: What Have We Learned?*

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THIS ARTICLE reviews what has been learned during the past 10 to 15 years about the restrictions and costs of intermediate sanctions, those mid-range punishments that lie somewhere between prison and routine probation. Various intermediate sanctions programs (ISPs) that incorporate intensive supervision, home confinement, community service, boot camps, and day fines have been developed in recent years.

For those of us whose research has focused primarily on community corrections, the end of the 1990s marks an important landmark. We have witnessed the natural progression of ISPs, beginning in the mid-1980s with the media's enthusiastic portrayal of them as the panacea of corrections; through program design and implementation; to evaluation and testing; and finally to institutionalization, redesign, or abandonment. It is critical for scholars, policymakers, and practitioners to look back and reflect upon what has been learned during these years.

When looking at ISPs, there are three important questions to consider: First, what did the ISP experiment consist of—who did what, with whom, and for what purpose? Secondly, how did ISPs affect program costs, recidivism, and prison crowding? And, perhaps most important, how is the knowledge gained from this experience influencing current practice?

Several conclusions can be drawn from the evaluations of ISPs:

- In terms of sheer numbers and investments, the overall ISP experiment was more symbolic in its achievements than substantive.
- Specific components must be in place for these programs to work.
- Research findings currently influence the design of corrections programs and, more important, contribute to an emerging community justice model that promises to create a major paradigm shift in community corrections.

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The ISP Experiment Begins

In the mid-1980s, a broad-based consensus emerged as to the desirability of developing mid-range punishments for offenders for whom incarceration was unnecessarily severe and ordinary probation was inappropriately light. Three converging conditions and events drove the development of this consensus.

1. Crowded Southern prisons and a poor economy. First, prison crowding in the Southern United States, coupled with a poor regional economy, created early pressures for tough community-based options. Federal courts found several overcrowded prisons in the South to be in violation of the eighth amendment prohibition against cruel and unusual punishment and mandated that these states either build new facilities or find some other way to punish offenders. Because these states did not have the funds to build new prisons (as other states experiencing prison population growth initially did), judicial pressure created an incentive for them to develop tough but inexpensive sentences, specifically those that did not require a prison cell. Because the voters were not about to endorse "soft" social programs, the new programs were presented to the public as punitive rather than rehabilitative. In fact, some of the older, first-generation intensive supervision programs (which provided intensive rehabilitation services) changed their names to "intensive surveillance" programs while programs originally called "alternatives to incarceration" were renamed "intermediate punishments."

The State of Georgia developed the first well-publicized intensive supervision program, the hallmark of which was the assignment of 25 offenders to a supervision team of two probation officers. The team consisted of a surveillance officer, whose main responsibility was to monitor the offender closely, and a probation officer, who provided counseling and had legal authority over the case. While on intermediate sanction, each probationer was seen five times a week, performed community service, paid a supervision fee, and had to be employed or in an educational program.

Georgia's self-evaluation showed that ISP participants had extremely low recidivism rates (less than 5 percent), and most offenders maintained employment and paid restitution to victims. In addition, the

monthly supervision fee made the program self-supporting. In 1985, Georgia Corrections Commissioner David Evans claimed the ISP had saved the state the cost of building two new prisons.

A great deal of national publicity followed. The *Washington Post* and the *New York Times* ran major stories touting the program's success and called Georgia's program "the future of American corrections." Proponents suggested that intermediate punishments could relieve prison crowding, enhance public safety, and rehabilitate offenders—all at a cost saving. Probation staffs also were enthusiastic, saying intermediate sanctions programs gave them an opportunity to "do probation work the way it ought to be done."

Illinois, Massachusetts, New Jersey, and Florida, among other states, quickly followed suit, and the intermediate sanctions movement was born. It is important to be clear about the initial motivation: modern ISPs were developed in direct response to prison crowding, and without that pressure, we would not be here today reviewing their performance.

2. First indepth study of U.S. felony probation.

Research evidence produced at that time showed that the existing felony probation system was a failure in large urban areas. This evidence helped convince California and other large states that had not yet faced severe prison crowding that there were public safety risks in placing felons on routine probation. In 1983, the National Institute of Justice (NIJ) awarded a grant to the RAND Corporation to conduct the first indepth study of felony probation in the United States. The final report, *Granting Felons Probation: Public Risks and Alternatives*, documented the fact that serious felons were being granted probation. Furthermore, because of limited (and often declining) community corrections resources, these offenders were ineffectively supervised, and the public safety consequences were severe. Two-thirds of the nearly 2,000 felony probationers who were tracked during this study were rearrested within 3 years, and more than half were reconvicted of serious offenses.¹

The study also generated a great deal of public attention because it clearly showed that overburdened probation staff often were unable to closely supervise felons or hold them accountable for their crimes. The researchers, however, did not call for the abandonment of probation for felons or their incarceration in the future but rather something in between:

The justice system needs an alternative, intermediate form of punishment for those offenders who are too antisocial for the relative freedom that probation now offers but not so seriously criminal as to require imprisonment. A sanction is needed that would impose intensive surveillance, coupled with substantial community service and restitution.

The study concluded that mid-range punishments—such as those instituted in Georgia—were needed not

only to relieve prison crowding but to relieve probation crowding as well. The dissemination of the NIJ-RAND study became the second event to increase the acceptance of ISPs.

3. Morris and Tonry's book on the polarization of sentencing. The third event that was critical in creating the impetus for the ISP movement was the publication of an influential book in 1990 by Norval Morris and Michael Tonry entitled *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*.² Written by two of the nation's leading criminologists, this study acknowledged that U.S. judges faced a polarized choice between prison and probation, with a near vacuum of punishment options between these extremes. The study provided the needed conceptual framework for a more graduated sanctioning system that relied upon a range of sentences including fines, community service, house arrest, intensive probation, and electronic monitoring. Morris and Tonry argued that rigorously enforced intermediate punishments better serve victims and the justice system. A continuum that matches offenders to sanctions based on the seriousness of their crime is essential—regardless of any prison-crowding concerns—in creating a rational sentencing system, they wrote.

The ISP Concept Gains Strong Support

What existed, then, were program models that appeared to work, research to show that without these programs the public was at serious risk, and a compelling theoretical justification for moving forward. A groundswell of support emerged for intermediate sanctions and, as one article noted about this period, "State legislators were virtually falling over each other" in an effort to sponsor legislation to implement these programs.³

The U.S. Department of Justice (DOJ) and several private organizations, particularly the Edna McConnell Clark Foundation, played a catalytic role in focusing this energy. In 1990, NIJ sponsored a national conference that brought together more than 300 federal, state, and local criminal justice administrators to explore the state of intermediate sanctions and their potential. In his keynote address, Attorney General Dick Thornburg emphasized the strong bipartisan support for developing intermediate sanctions. The Bureau of Justice Assistance (the "action" arm of DOJ) solicited agencies across the country to participate in a demonstration to test the costs and benefits of various types of ISPs. In addition, NIJ and the National Institute of Corrections (NIC) provided technical assistance, training, and research for a number of projects.

The 10 years between 1985 and 1995 could best be described as the period of ISP implementation and evaluation. Hundreds of programs were started, often with a great deal of ceremony. During this period, vir-

tually every large probation or parole agency developed programs of intensive surveillance, electronic monitoring, house arrest, drug testing and, to a lesser extent, boot camps and day reporting centers.

A Closer Look Reveals Low ISP Participation and Shallow Funding

Most important, very few offenders, relatively speaking, participated in intermediate sanctions programs, and few dollars were spent on new ISP initiatives. Today, virtually every state and the federal government report having intensive supervision programs, but fewer than 6 percent of the 2.7 million adult probationers and parolees in the United States are estimated to be participating in them. (This number is, however, higher than anytime in the past.⁴) All 50 states report using electronic monitoring, and, despite what has often been characterized as explosive growth, the number of probationers and parolees monitored electronically is now at its highest level ever—about 1 percent.⁵ Although 35 states report operating boot camps, the combined daily census has never exceeded 10,000 participants.⁶ Finally, although nearly 125 day reporting centers operate in the United States, their combined daily population is less than 15,000.⁷

It appears that, at most, 10 percent of adult probationers and parolees participate in ISPs—a figure that is probably higher than at any time in the past. It is safe to say that the ISP experiment has not touched the bulk of those for whom it might be appropriate, such as felons with increasingly serious prior records and a history of substance abuse who are granted probation.

Moreover, when offenders were assigned to ISPs, the intensity of services and surveillance fell short of what the initial program models prescribed—most likely because sufficient dollars were not invested. As best as can be calculated, less than \$10 million was invested by the federal government in ISP research and demonstration projects between 1985 and 1995. This can be compared to the \$10 million the federal government invests in evaluations of community-oriented policing each year.

In no way is this intended to offend those responsible for making these funding decisions. The boom in ISPs took place in 1994—the same time that DOJ and NIJ budgets for research and demonstration programs were declining to a 20-year low. Competition for those scarce dollars was fierce, and corrections research—particularly community corrections research—has never attracted major financial support. Fortunately, Congress has increased funding to the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics (BJS), and NIJ, and corrections research has again found support.

What Did the ISP Experiment Really Consist Of?

It is beyond the scope of this presentation to fully describe the nature of ISPs or their evaluations. For any-

one interested in such details, the recently published University of Maryland report entitled *Preventing Crime: What Works, What Doesn't, What's Promising* is recommended.⁸ However, I will briefly summarize the specifics of the more popular programs.

As mentioned earlier, intensive supervision programs were the first—and still remain—the cornerstone of the intermediate sanctions movement. ISPs initially were developed as a means to divert low-risk prisoners to the community or place higher-risk probationers on smaller caseloads with more restrictions. Concurrent with the emergence of ISPs was a developing technology to permit greater surveillance of offenders. As the cold war wound down, the defense industry along with the developing computer and electronic industries saw the community corrections clientele as a natural place to put its energies—a growing market. Electronic monitoring, voice verification systems, cheap on-site drug testing, breathalyzers through the phone—all allowed community corrections the option of becoming more surveillance-oriented and using the offender's home as a place of incarceration.

Jurisdictions could choose from a menu of bells and whistles, which included surveillance and services, and the goal came to be toughness in appearance. Jurisdictions adopted what they wanted, what they could afford, and applied such programs to whomever they wanted—so that a wide variety of ISPs got implemented—and the name “ISP” really has no commonly agreed upon definition as a result. It simply means “more than” what offenders in that location would have gotten in the absence of the ISP.

As noted earlier, most of the programs implemented were much less intensive than the original Georgia model had called for. Recall that the Georgia ISP model called for caseloads of 25:2, and two face-to-face contacts, minimally per week, and I know of no large urban probation department that was able to sustain that level of caseload size and contact level for its felony probationers. Even programs that began with multi-week visits displayed a strong tendency to “regress to the mean” of only one or two visits per month to a client. Suffice to say that for offenders who did participate, their level of *both* service and surveillance fell below the desired intensity.

Moreover, failure to comply with ISP conditions did not mean that you would be violated from probation. Patrick Langan of BJS studied a nationally representative sample of all adult probationers and discovered that nearly half of them were discharged from probation *without* having fully complied with their court-ordered sanctions.⁹ More than a third of all offenders were successfully discharged from probation without completing court-ordered drug treatment, drug testing, house arrest, or day reporting programs. And 40 percent of those discharged had not paid their victim resti-

tution or supervision fees. He concluded that “intermediate sanctions are not rigorously enforced.” Still, something different *did* happen in those communities that implemented ISPs and several good evaluations were conducted.

Program Costs, Recidivism, and Prison Crowding

Relative to the investment made, a tremendous amount was learned from these programs. Despite differences in the programs, the agencies that implemented them, and the characteristics of offenders who participated in them, three major findings are very consistent.

First, ISP participants, by and large, were not prison-bound but rather were high-risk probationers. In state after state, well-meaning program developers wrote guidelines for prison “diversions.” Well-meaning judges and prosecutors ignored them and filled the programs with high-risk probationers. From the perspective of those who created these programs to save money and prison space, judges “misused” intermediate sanctions. From the perspective of judges, they had endorsed the concept of a continuum of sanctions and preferred to use these options to increase supervision and accountability for felony probationers. The ISP experiment was definitely “net widening,” but given the laxity of current supervision of serious felons on probation, it is more accurate to characterize it as “net repairing.”

Second, ISP offenders were watched more closely, but ISP supervision did not decrease subsequent arrests or overall justice system costs. Technical violations, however, increased. Offenders on intermediate sanctions, electronic monitoring, boot camps, day fines, and drug testing programs were watched more closely—as evidenced by a greater number of contacts—but the programs did not reduce new arrests.

For example, the ISP national demonstration evaluated by Susan Turner and me, which involved 14 counties in 9 states, found no difference in arrests after 1 year (38 percent for ISP participants and 36 percent for routine probationers), more ISP than control offenders with technical violations (70 percent and 40 percent, respectively), and, as a result, more ISP than control offenders returning to prison or jail by the end of 1 year (27 percent and 19 percent, respectively).¹⁰

Because it is doubtful that ISP offenders committed more violations, close surveillance probably uncovered more technical violations. Whenever this happened, many ISP managers took punitive action—often revocation to prison—to maintain the program’s credibility in the eyes of the judiciary and the community. Programs that were started primarily to save money and avoid the costs of prison often cost their counties more over the long term.

These results bring into question two basic premises of intermediate sanctions, i.e., that increased surveil-

lance acts as a constraint on the offender and that the likelihood of detection acts as a deterrent to crime. The University of Maryland project, which summarized evaluations across the full range of intermediate sanctions, concluded: “Except in a few instances, there is no evidence that these programs are effective in reducing crime as measured by official record data.”¹¹

Third, an important and tantalizing finding—consistent across all the evaluations regardless of program design—points to the importance of combining surveillance and drug treatment program participation. In the RAND ISP demonstration, offenders who participated in treatment, community service, and employment programs—prosocial activities—had recidivism rates 10 to 20 percent below that of those who did not participate in such additional activities.

Researchers have found similar results in Massachusetts, Oregon, and Ohio, and a recent meta-analysis of 175 evaluations of intermediate sanctions programs concluded that the combination of surveillance and treatment is associated with reduced recidivism.¹² Paul Gendreau and Tracy Little conclude, “In essence, the supervision of high-risk probationers and parolees must be structured, [be] intensive, maintain firm accountability for program participation, and connect the offender with prosocial networks and activities.”

The empirical evidence regarding intermediate sanctions is decisive: Without a rehabilitation component, reductions in recidivism are elusive. In sum, the ISP evaluations show that programs were seldom used for prison diversion but rather to increase accountability and supervision of serious offenders on probation. In addition, programs did not reduce new crimes, but instead increased the discovery of technical violations and ultimately increased incarceration rates and system costs. However, programs that provided treatment and additional services obtained some reductions in recidivism, particularly for high-risk offenders and for drug offenders more specifically.

Influencing Current Practice

How do ISP evaluations influence current practice? This is the most important of the three original questions because the ultimate goal of producing knowledge is to effect positive action. Still to be addressed are the same issues that motivated the intermediate sanctions movement—prison overcrowding, probation overload, insufficient resources, and public demand for accountability and punishment. How can this evidence be used to answer the central question, “If not prison, what?”

Researchers and policymakers cannot plead ignorance or abstain from the debate—because they know what is useful. Although they do not have all the answers, they have an obligation to engage in the debate and interject the known evidence because policy is made on these matters every day. It appears that this

is happening in quiet but significant ways that may well result in a major paradigm shift for community corrections in the United States.

Program Redesign

First, the body of ISP evidence is being used to redesign programs that integrate surveillance with treatment opportunities. This is particularly true with juvenile justice programs but also with programs for adults, particularly drug offenders. The Office of Juvenile Justice and Delinquency Prevention Comprehensive Strategy for Youth endorses graduated sanctions and incorporates two principal components—increasingly strict supervision and a continuum of treatment alternatives.¹³ Many states have adopted the Comprehensive Strategy. The California Legislature, for example, recently allocated \$50 million to fund probation programs for delinquent youth and, drawing upon the evidence reviewed earlier, required that both surveillance and treatment be part of any funded program.

Other programs also have moved away from a singular focus on surveillance. Several boot camps, for example, are enhancing the therapeutic parts of their programs and shifting away from total reliance on physical, militaristic programming. UCLA's Mark Kleiman has proposed major funding for a national initiative labeled "coerced abstinence," which at its core will provide drug testing (a main ingredient in surveillance programs), plus treatment in and out of prison, followed by intensive aftercare upon release. A key component of his program is swift and certain response to drug-use violations.

One of the major recommendations of the recently published report by the Governor's Task Force on Sentencing and Corrections in Wisconsin, which draws heavily upon ISP experiences, calls for the elimination of probation for felons.¹⁴ The task force recommends that felony probation be replaced with an arrangement named "community confinement and control" (CCC), which mandates electronic monitoring, urine testing, work or community service, and 18 to 20 contacts a month with a probation officer who has a caseload of no more than 17 offenders. CCC officers carry out "community-oriented probation" (similar to community-oriented policing), in which they provide active as opposed to passive supervision. They are required to engage the offender's family, employer, and neighborhood to create a support and supervision network. The Wisconsin Legislature has allocated the necessary resources to pilot the task force recommendation in two jurisdictions.

These are just a few of the ways in which ISP research results directly influence the design of future programs. It is safe to say that most corrections professionals are keenly aware of these findings. In terms of contributing to a cumulative body of knowledge

about correctional programming, the ISP experiment can be considered a success.

Neighborhood Probation

The legacy of the intermediate sanctions experiment is likely to be far more important than simply the redesign of individual programs. ISPs have set the stage for an emerging model of community probation (also called community justice and neighborhood probation) in which probation officers partner with the police and community members to reduce public safety threats posed by offenders in their midst. Under this model, probation officers take an active role in community building and not just offender restraint. The probation and parole officers who are involved in ISP supervision programs are emerging as key players.

Interestingly, as community corrections officers move toward a tougher form of probation, which some liken to police work, police officers are embracing community-based policing, which some liken to probation or social work. Probation and police officers are getting out from behind their desks and out of their cars and into the community. "In your face" probation includes visiting the offender's home and work site and working with community agencies to develop and supervise community service obligations—a much more active type of probation.

Police, too, are getting out into communities, holding neighborhood meetings, and taking the pulse of neighborhoods they serve through comparatively well-funded community policing programs. One of the key goals of community policing is getting to know the people on the beat—offenders as well as law-abiding citizens. Police have heard repeatedly about residents' fear of offenders and the lack of justice and accountability for people who were arrested and placed on probation or released on parole. Victims felt crime was trivialized by a justice system that simply slapped the wrist of criminals and sent them home or imposed conditions that were not monitored. Repeat victimization was common, and the community wanted criminals who had committed serious offenses taken off its streets. Once that was done, community residents wanted programs to help the next generation become responsible citizens.

The police came to realize that to significantly reduce crime they had to get out in front of the problem and not merely react to reports of crime. They needed to be proactive rather than simply reactive. To be proactive, the police needed a variety of sources of information. Much of that information and—as it turns out—legal authority exist in the minds of the officers who operate intensive supervision programs in probation departments.

Historically, there has been animosity between police and probation officers—police believe they catch criminals, and probation lets them out. But this new

“community justice” model creates a three-part collaborative between the police, probation, and members of the community.

Operation Night Light. Let me illustrate this for you by describing briefly what is happening in Boston, in a formal police-probation partnership program, one component of which is called “Operation Night Light.” President Clinton praised this program in his State of the Union address and called for its expansion nationwide. No one can remember a President ever mentioning “probation” in a national address, and that alone is seen as important since probation supervises two-thirds of all correctional clients in the U.S. yet few in the public know much about it. The originators of the Boston project describe it in *Community Corrections: Probation, Parole and Intermediate Sanctions*.¹⁵

Community meetings organized by community policing officers in Boston revealed that, as a result of ISP experiments and other local corrections programs, probation officers knew a lot about high-risk offenders and locations in their neighborhoods as well as community resources and programs. Moreover, these neighborhood discussions revealed that many of these lawbreakers were already on probation or parole, but probation officers simply did not have the resources to monitor them, serve warrants, locate absconders, or secure treatment and other programs that these offenders needed. Because these offenders were on probation, their movements in the community could be limited by court order as a condition of probation. In fact, many of them were under court-ordered conditions—for example, nighttime curfews and weapons restrictions—that, if enforced, could be extremely useful in reducing the community’s fear.

Admittedly, police and probation partnerships in the past usually began as a way to increase surveillance of high-risk offenders in the community. There was such a partnership in Long Beach, California, as early as 1987. The new community justice partnerships look and feel different from earlier efforts. For example, the Boston project has expanded to include clergy, youth workers, school personnel, and parents. In addition, interesting trends have developed. Judges are expressing greater confidence that such probation terms as curfews and geographical restrictions might be enforced. Police now have information on conditions of probation and feel that they can count on the probation system to hold offenders accountable when they violate those terms. Finally, because warrants are being served, police are reporting violations to probation officers.

By combining police and probation resources, probation supervision has become a 24-hour-a-day, highly accountable reality. What was impossible for probation to do alone (even in the most intensive ISPs) has become possible under the partnership between the police and the community.

This effort has required a lot of cooperation and coordination. Initially, probation officers were reluctant to partner with the police, and the police did not want to connect with “social workers.” Over time, however, each group began to realize that everyone has something to gain from the other. Police are learning from community corrections officers and others about community resources such as employment and school truancy prevention programs. Boston police officers attend joint training seminars, participate in strategic planning sessions with other organizations, and jointly participate in research projects. The police, probation, clergy, and lay people now attend monthly community meetings. Most recently, gang members and community mental health workers began to attend these meetings as well. The Boston program is expanding to incorporate new initiatives that employ the team approach. For example, police now help probation officers monitor high-risk, volatile domestic cases to reduce violence and school programs to reduce truancy. Probation absconders receive priority arrest status by police. The program has spread from Boston to a dozen other probation jurisdictions throughout Massachusetts.

Similar partnerships, now spreading across the nation, could not have been so easily forged without the ISP experiments of the past decade and the gradual acceptance by probation and parole staff of surveillance activities. Police and probation officers were moving in the same direction but did not realize it. Probation officers were getting out of their offices and monitoring offenders where they lived. Police officers were getting out of their cars and walking their beats, which allowed them to work with community members to identify problems and problem people. They stumbled onto one another; the collaborative prospects are exciting.

These programs are more than just surveillance, although admittedly surveillance plays a major role in some of them. Study after study has shown that probation and police officers, once they become familiar with individual communities and the people who live there, tend to develop less hardened attitudes. The following anecdote illustrates this.

Washington’s SMART Partnership. The Washington State Supervision Management and Recidivist Tracking (SMART) Partnership for police and community corrections shares some of the characteristics of the Boston program.¹⁶ One former director of corrections visited the community corrections field offices throughout the state annually to discuss priorities for the coming year. Each year, one particular field chief asked the director when probation officers would receive permission to carry weapons. This field chief complained at length about the personal risks he faced when making home visits to dangerous places and how drug use made offenders’ behavior increasingly unpredictable and violent. However, the last time the former

director saw this man, who had become an active participant in the SMART program, he said he did not need guns but needed more government funds to subsidize jobs for probationers. Clearly, a greater degree of community engagement occurs in these programs.

No Agency Is an Island

The ultimate legacy of a decade of experimenting with intermediate sanctions is the strong message that no one program—surveillance or rehabilitation alone—and no one agency—police, probation, mental health, or schools alone—nor any of these agencies without the community can reduce crime or fear of crime on its own. Crime is a complex, multifaceted problem that will not be overcome by simplistic, singularly focused solutions—whether they be boot camps, electronic monitoring, or intensive probation. Workable, long-term solutions must come from the community and be embraced and actively supported by the community.

This message of community support and involvement is a lesson we learn repeatedly. If the ISP evidence lends any scientific support or credibility to that message or to practitioners and researchers who are involved in this experiment, the money invested in intermediate sanctions will have been exceedingly well spent.

NOTES

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⁴C. Camp and G. Camp, *The Corrections Yearbook*. South Salem, NY: Criminal Justice Institute, Inc., 1997.

⁵Ibid, p. 143.

⁶Ibid, p. 96.

⁷D. Parent et al., *Day Reporting Centers*. Washington, DC: National Institute of Justice, 1995.

⁸L. Sherman et al., *Preventing Crime: What Works, What Doesn't, What's Promising*. College Park, MD: University of Maryland, 1997. See, in particular, Chapter 9, "Criminal Justice and Crime Prevention," by Doris L. MacKenzie.

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