**PUNISHMENTS**

Crimes are punished according to the seriousness of the act, and often take into consideration the prior criminal history of the defendant.

Both the federal system and the states divide crimes into two broad categories: **misdemeanors** (which are less serious crimes) and **felonies** (which are more serious crimes). **Infractions**, such as traffic tickets, are generally not thought of as criminal offenses, though they can result in similar punishments, such as fines.

Misdemeanor crimes are less serious than felonies, and carry less serious punishments. In most states, incarceration in a local jail can be imposed for up to one year. By contrast, felonies involve more than a year of incarceration, and this time is usually spent in a state prison. In the federal system and those states that have the death penalty, this punishment is reserved for the most heinous of crimes.

If you plead guilty to a crime or are convicted after a trial, you may assume that you’ll spend at least some time in jail or prison. But that’s not necessarily the case. You might only have to pay a fine, serve time with some form of community sentencing, or go through treatment or other programs as a condition of probation. Your sentence—and whether you’re eligible for alternatives to incarceration—will depend on several factors, including:

* the nature of the crime
* your past record
* the laws and court rules in the jurisdiction (the state or federal court)
* the judge in your case.

Advocates for criminal justice reform have long argued for alternatives to incarceration as a better way to rehabilitate offenders and avoid the harm to their families and communities. More and more states are coming around to that point of view, especially since alternative sentencing saves taxpayer money and reduces prison overcrowding.

Let’s take a look at the different types of punishments.

**Incarceration**

Jails are short‐term lock‐up centers normally run by counties and operated by county sheriffs. Inmates housed in jails include unconvicted defendants awaiting trial who are unable to make bail, those convicted of misdemeanors, and felons serving jail time as a result of probation violations. **Prisons** are long‐term facilities operated by state and federal governments. Most prison inmates are convicted felons serving sentences of more than one year.

For certain crimes and punishments, prisoners can receive time off their sentence for good behavior and be released prior to their maximum prison term if a board of experts deems them ready to reenter society. This is called **parole**. Not all crimes are eligible for parole; this depends on the laws of the state, the prior record of the accused, and the decision of the judge. Those released on parole are supervised for a period of years.

**Fines**

Many less serious offenses—from routine traffic violations to petty theft and shoplifting—carry a sentence of only a fine. In more serious cases, judges combine fines with incarceration or other punishments. Fines are paid to the court; if they aren’t paid, then offenders can go to jail.

**Restitution**

Restitution requires an offender to pay money to a victim, whereas a fine requires an offender to pay money to the government. The idea behind restitution is to make the offender pay the victim back for economic losses caused by the crime. The offender may, for example, be required to pay the victim's medical bills or pay a sum of money equal to the value of property stolen. Sometimes, restitution may be paid to a state restitution fund to then be distributed to a group of victims by the government.

**Probation**

Probation, the most frequently used criminal sanction, is a sentence that an offender serves in the community instead of incarceration. Probation is the preferred sentence when the crime is nonviolent, the offender isn't dangerous, the convicted criminal isn't a repeat offender, and/or the criminal is willing to make restitution. In those cases, the jail or prison sentence is usually suspended as long as the offender meets the conditions of probation. In other cases, offenders will be placed on probation after a period of incarceration or under a deferred sentencing agreement (which allows criminal charges to be dismissed after the defendant pleads guilty and then completes probation).

Traditional probation conditions include reporting to and obeying a probation officer; paying fees, fines, and restitution; keeping a job or going to school; and obeying all laws. But many other alternative sentences may be included as a condition of probation, including house arrest, participation in programs for substance abuse or mental health, ankle monitoring bracelets, community service, and public shaming.

If a person on probation violates any condition of probation or commits a new crime, the judge can revoke (take away) probation and put the offender into jail or prison.

**House Arrest and Electronic Monitoring**

An offender sentenced to house arrest must spend all or most of the day at home. Compliance is enforced in some states by requiring the offender to wear a small transmitter on the wrist or ankle, which sends electronic signals to monitoring units. House arrest can stand alone as a sanction or be used with electronic monitoring. It can also be coupled with fines, community service, and other sanctions. Some electronic monitoring devices can analyze an offender's breath to see if the offender has drunk any alcohol in violation of conditions of the house‐arrest sentence.

**Community service**

Paying the community back for harm done, through doing work that benefits the public, is the essence of community service. Offenders can be required, for example, to pick up trash in parks, plant trees, and wash away graffiti.

**“Scarlet-letter” punishments**

Public shaming provides an alternative to removal from society or other forms punishment for certain crimes. Courts have ordered people convicted of assault or child molestation to put signs in their yards, announcing their crimes. Still other judges have ordered chronic drunk drivers to put bright orange bumper stickers on their cars, announcing their problem and urging other drivers to report erratic driving to the police. Critics say this form of punishment is unlikely to succeed in changing the behavior of repeat offenders because those people are used to breaking society's rules anyway.

**Capital punishment**

Reserved for the worst of crimes, the death penalty is currently legal and used by 28 states, the federal government, and the military. It is usually reserved for those who commit first‐degree murder under aggravating circumstances (i.e. with intent and a violent/deadly weapon). To prevent the arbitrary application of the death penalty, death‐penalty statutes (or laws) contain many safeguards. Particularly significant are requirements that limit the discretion of the sentencing jury or judge, that require the presence of aggravating circumstances, that allow the introduction of evidence showing mitigating circumstances, that mandate a two‐part proceeding (one for the determination of innocence or guilt and the other for deciding the sentence), and that provide for the automatic review by an appellate court of all death sentences.